Part: IV, V

1887

INDEX

TO

Punjab Government Gazette

FOR THE YEAR

1887.

PART IV

Civil Department.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JANUARY 27, 1887.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 14th January, 1887, and is hereby promulgated for general information:—

ACT NO. I OF 1887.

An Act for further shortening the language used in Acts of the Governor General in Council, and for other purposes.

WHEREAS it is expedient further to shorten the language used in Acts made by the Governor General in Council, and to make certain further provisions relating to those Acts and to Regulations under the Statute 33 Victoria, chapter 3, section 1; It is hereby enacted as follows:—

Title and commencement.

1. (*1*) This Act may be called the General Clauses Act, 1887; and

(*2*) It shall come into force at once.

PART I.

ADDITIONAL CLAUSES.

Application of this Part.

2. This Part shall apply to this Act and to all Acts made by the Governor General in Council under the Indian Councils Act, 1861, after the passing of this Act.

24 & 25 Vic., c. 67.

Definitions.

3. In any Act to which this Part applies, unless there is something repugnant in the subject or context,—

(*1*) "abet," with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code:

XLV of 1860.

(*2*) "Chapter", "Part" and "schedule" shall denote, respectively, a Chapter and Part of, and schedule to, the Act in which the word occurs:

(*3*) "sub-section" shall denote a sub-section of the section in which the word occurs:

(*4*) "commencement", used with reference to an Act, shall mean the day on which the Act comes into force:

(*5*) "financial year" shall mean the year commencing on the first day of April:

(*6*) "local authority" shall mean a municipal committee, district board, body of port commissioners or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund:

(*7*) "ship" shall include every description of vessel used in navigation not exclusively propelled by oars:

(*8*) "master", used with reference to a ship, shall mean any person (except a pilot or harbour-master) having for the time being control or charge of the ship:

(*9*) "offence" shall mean any act or omission made punishable by any law for the time being in force:

(*10*) "public nuisance" shall have the meaning assigned to that expression in section 268 of the Indian Penal Code:

(*11*) "registered" shall mean registered under the law for the time being in force for the registration of documents:

(*12*) "sign", with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark", with its grammatical variations and cognate expressions:

(*13*) "value", used with reference to a suit, shall mean the amount or value of the subject-matter of the suit: and

(14) "write", with its grammatical variations and cognate expressions, shall include "print" and "lithograph", with their grammatical variations and cognate expressions.

Making of rules and issue of orders between passing and commencement of Act.

4. Where, by an Act to which this Part applies and which is not to come into force immediately on the passing thereof, a power is conferred on the Governor General in Council or on a Local Government or a High Court to make rules, or to issue orders with respect to the application of the Act, or with respect to the establishment of any Court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which, anything is to be done under the Act, the power may be exercised at any time after the passing of the Act, but rules or orders so made or issued shall not take effect till the commencement of the Act.

Powers to be exercise-able by the Government from time to time.

5. Any power conferred on the Governor General in Council or on a Local Government by an Act to which this Part applies may be exercised from time to time as occasion requires.

Provisions applicable to making of rules after previous publication.

6. Where, by an Act to which this Part applies, a power to make rules is expressed to be given subject to the condition of the rules being made after previous publication, the following provisions shall apply, namely:—

(1) The authority having power to make the rules shall, before making them, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Governor General in Council or the Local Government prescribes.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The authority having power to make the rules, and, where the rules are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules from any person with respect to the draft before the date so specified.

(5) The publication in an official Gazette of a rule purporting to have been made in exercise of a power to make rules after previous publication shall be conclusive proof that the rule has been duly made.

Computation of time.

7. (1) Where a limited time from any date or from the happening of any event is appointed or allowed, by an Act to which this Part applies, for the doing of any act or the taking of any proceeding in a Court or office, and the last day of the limited time is a day on which the Court or office is closed, then the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

(2) Where, by an Act to which this Part applies, any act or proceeding is directed or allowed to be done or taken in a Court or office on a certain day, then, if the Court or office is closed on that day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open.

(3) This section does not apply to any act or proceeding to which the Indian Limitation Act, 1877, applies. XV of 18[77]

Provisions as to offences under more than one enactment.

8. Where an act or omission constitutes an offence under two or more enactments of which either or any is an Act to which this Part applies, the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

PART II.

SUPPLEMENTAL PROVISIONS.

Amendment of section 3 (1), Act I, 1868.

9. The words "wholly or partially" shall be inserted before the word "repealed" in clause (1) of section 3 of the General Clauses Act, 1868, and shall be deemed to have been there from the commencement of that Act. I of 1868

Application of this Act and Act I, 1868, to Regulations under 33 Vic., c. 3, s. 1.

10. The provisions of this Act and of the General Clauses Act, 1868, shall, so far as they can be made applicable, apply to all Regulations which may receive the assent of the Governor General under the Statute 33 Victoria, chapter 3, section 1, after the commencement of this Act. I of 1868

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill for further shortening the language used in Acts of the Governor-General in Council, and for other purposes, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th January, 1887:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill for further shortening the language used in Acts of the Governor General in Council, and for other purposes, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

From Secretary to Chief Commissioner, Assam, No. 2153, dated 7th October, 1886 [Paper No. 1].
From Secretary to Chief Commissioner, Coorg, No. 1904—3946, dated 22nd October, 1886 [Paper No. 2].
From Chief Commissioner, Ajmere-Merwára, No. 1242—690-II, dated 29th October, 1886 [Paper No. 3].
From Chief Secretary to Government, Madras, No. 2936, dated 30th October, 1886, and enclosures [Papers No. 4].
From Under Secretary to Chief Commissioner, Central Provinces, No. 5127—303, dated 11th November, 1886 [Paper No. 5].
From Secretary to Government, North-Western Provinces and Oudh, No. 867—VII-347, dated 16th November, 1886, and enclosures [Papers No. 6].
From Secretary for Berar to Resident, Hyderabad, No. 428G., dated 17th November, 1886 [Paper No. 7].
From Chief Secretary to Government, Bengal, No. 3519J., dated 1st December, 1886, and enclosures [Papers No. 8].
From Secretary to Chief Commissioner, Burma, No. 79—28L., dated 3rd December, 1886 [Paper No. 9].
From Registrar, High Court, Calcutta, No. 2734, dated 8th December, 1886 [Paper No. 10].
From Acting Under Secretary to Government, Bombay, No. 7190, dated 10th December, 1886, and enclosures [Papers No. 11].

2. We have removed the definition of "soldier" from section 3 of the Bill and struck out section 10 which was consequential on that definition. It appears to us that the substance of the definition and section will be more appropriately inserted in the Cantonments Bill, which is now under the consideration of the Government, than in this Bill, which is to be of general application.

3. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India	4th, 11th and 18th September, 1886.
Fort Saint George Gazette	24th September, 1886.
Bombay Government Gazette	9th September, 1886.
Calcutta Gazette	15th, 22nd and 29th September, 1886.
North-Western Provinces and Oudh Government Gazette	11th, 18th and 25th September, 1886.
Punjab Government Gazette	9th, 16th and 23rd September, 1886.
Central Provinces Gazette	11th, 18th and 25th September, 1886.
Burma Gazette	25th September, and 2nd and 9th October, 1886.
Assam Gazette	25th September, and 2nd and 9th October, 1886.
Coorg District Gazette	1st October, 1886.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Maráthi	9th December, 1886.
	Gujaráthi	2nd December, 1886.
	Kanarese	18th November, 1886.
Burma	Burmese	4th, 11th and 18th December, 1886.

4. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

ANDREW R. SCOBLE.
J. B. PEILE.
W. W. HUNTER.

The 4th January, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 14th January, 1887, and is hereby promulgated for general information :—

ACT No. II OF 1887.

An Act to amend the Sea Customs Act, 1878, the Excise Act, 1881, and the Indian Tariff Act, 1882.

WHEREAS it is expedient to amend the Sea
8. Customs Act, 1878, the Excise Act, 1881, and
81. the Indian Tariff Act, 1882;

It is hereby enacted as follows :—

Sea Customs Act, 1878.

Amendment of section 144.

8. **1.** (*1*) In clause (*b*) of the second paragraph of section 144 of the Sea Customs Act, 1878, there shall be inserted after the word "unless" the word "either", and after the word "destination" the following, namely :—

"or the delivery of the spirit into a warehouse appointed in this behalf by the Local Government having authority at that port".

(*2*) In the third paragraph of the same section of the same Act the following shall be substituted for the word "paid", namely :—

"so paid or the spirit so delivered."

Amendment of section 146.

2. In section 146 of the same Act, for the word "shall" in each of the two places where that word occurs, the word "may" shall be substituted.

Amendment of section 148.

3. (*1*) To section 148 of the same Act the following words shall be prefixed, namely :—

"Notwithstanding anything in the Indian Tariff Act, 1882,".

(*2*) To the same section of the same Act the following shall be added, namely :—

"Provided that the Local Government may authorise the import of such spirit without the payment of that duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the excise-duty thereon is to be paid on the removal of the spirit from a warehouse so appointed."

Amendment of section 151.

4. (*1*) To section 151 of the same Act the following words shall be prefixed, namely :—

"Notwithstanding anything in the Indian Tariff Act, 1882,". XI of 188

(*2*) After the same section of the same Act the following shall be added, namely :—

"Provided that the Local Government may authorise the import of such spirit without the payment of the differential duty at the port of importation when the spirit is to be delivered into a warehouse appointed by the Local Government in this behalf, and the differential duty is to be paid on the removal of the spirit from a warehouse so appointed."

Excise Act, 1881.

New section substituted for section 23.

5. For section 23 of the Excise Act, 1881, the following shall be substituted, namely :— XXII of 1

Spirit and fermented liquor from foreign territory subject to duty.

"23. (*1*) A person shall not bring into any territory to which this Act extends any spirit manufactured at any place in India beyond the limits of British India, until he has obtained a pass therefor from such officer as the Local Government from time to time appoints in this behalf, and has paid in respect thereof—

"(*a*) if the Local Government has fixed a duty under clause (*a*) of section 7 for like spirit manufactured in the part of the territory into which the spirit is to be brought, that duty, or

"(*b*) if the Local Government has not fixed a duty under that clause for like spirit manufactured in that part, a duty at such rate as the Local Government from time to time prescribes in this behalf, not exceeding the highest rate leviable, under the law for the time being in force, on spirit imported into British India by sea.

"(*2*) The provisions of sub-section (*1*) with respect to spirit shall apply to fermented liquor

also, with this modification, that the duty to be paid in respect of the liquor shall be the duty leviable on like liquor under the Indian Tariff
XI of 1882. Act, 1882.

"(3) If any question arises as to the duty to be charged on any spirit or fermented liquor under this section, the decision of the Local Government thereon shall be final."

Amendment of section 36.

6. (1) In clause (c) of section 36 of the same Act the words "or fermented liquor" shall be inserted after the words "any spirit".

(2) In the last paragraph of the same section of the same Act the words "or fermented liquor" shall be inserted between the words "the spirit" and the words "together with".

Indian Tariff Act, 1882.

XI of 1882.

Repeal of portion of preamble.

7. In the preamble to the Indian Tariff Act, 1882, the words "and for fixing a maximum duty of excise on spirit manufactured in British India" are repealed.

Addition to section 7.

8. To section 7 of the same Act the following shall be added, namely:—

"Nothing in this section applies to spirit which is exported under bond for excise-duty from one customs-port to another customs-port under the provisions of Chapter XIV of the Sea
VIII of 1878. Customs Act, 1878."

Amendment of Second Schedule.

9. In No. 2 of the Second Schedule to the same Act—

(a) "Rs. 5" shall be substituted for "Rs. 4" in the fifth column as the rate of duty to be levied and collected per Imperial Gallon or six quart bottles of "Liqueurs"; and

(b) for the following, namely:—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
	Spirit when so used in a proportion of twenty per cent. and upwards.	Impl. Gallon or six quart bottles of the strength of London proof.	...	Rs. 4, and the duty to be increased in proportion as the strength of the spirit exceeds London proof.
	Spirit, perfumed, in wood, or in bottles containing more than four ounces.	Ditto	...	
	Spirit, other sorts.	Ditto		

there shall be substituted the following, namely:—

No.	Names of Articles.	Per	Tariff valuation.	Rate of duty.
	Spirit when so used in a proportion of twenty per cent. and upwards.	Impl. Gallon or six quart bottles of the strength of London proof.	...	Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.
	Spirit, perfumed, in wood or in bottles.	Impl. Gallon or six quart bottles.	...	Rs. 7-8.
	Spirit, other sorts.	Impl. Gallon or six quart bottles of the strength of London proof.	...	Rs. 5, and the duty to be increased or reduced in proportion as the strength of the spirit exceeds or is less than London proof.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 14th January, 1887, and is hereby promulgated for general information :—

ACT No. III OF 1887.

An Act to amend the Indian Evidence Act, 1872.

WHEREAS it is expedient that Revenue-officers should not be compelled to say whence they obtain information with respect to offences against the public revenue; It is hereby enacted as follows :—

New section substituted for section 125 of the Evidence Act.

1. The following section shall be substituted for section 125 of the Indian Evidence Act, 1872, namely :— I of 1872.

Information as to commission of offences.

"125. No Magistrate or Police-officer shall be compelled to say whence he got any information as to the commission of any offence, and no Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence against the public revenue.

"*Explanation.*—'Revenue-officer' in this section means any officer employed in or about the business of any branch of the public revenue."

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the Indian Evidence Act, 1872, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th January, 1887 :—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Evidence Act, 1872, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

From Mr. Venkatrao Ramaji Gutikar, Pleader, District Court, Belgaum [Paper No. 1].
From Registrar, High Court, Calcutta, No. 2269, dated 14th September, 1886 [Paper No. 2].
From Secretary to Chief Commissioner, Assam, No. 2043, dated 25th September, 1886 [Paper No. 3].
From Chief Secretary to Government, Madras, No. 2526, dated 22nd September, 1886, and enclosures [Papers No. 4].
From Secretary for Berar to Resident, Hyderabad, No. 373 G., dated 13th October, 1886 [Paper No. 5].
From Chief Commissioner, Ajmere-Merwára, No. 1220—690-IV, dated 22nd October, 1886 [Paper No. 6].
From Secretary to Chief Commissioner, Coorg, No. 1902—3716, dated 22nd October, 1886 [Paper No. 7].
Endorsement by Acting Chief Secretary to Government, Madras, No. 2891, dated 26th October, 1886, and enclosures [Papers No. 8].
From Chief Secretary to Government, Bengal, No 1987 J. D., dated 1st November, 1886 [Paper No. 9].
From Secretary to Government, Punjab, No. 1057, dated 5th November, 1886, and enclosures [Papers No. 10].
From Acting Under Secretary to Government, Bombay, No. 6285, dated 2nd November, 1886, and enclosures [Papers No. 11].
From Under Secretary to Chief Commissioner, Central Provinces, No. 5080—291, dated 5th November, 1886 [Paper No. 12].
From Under Secretary to Government, North-Western Provinces and Oudh, No. 866—VII-341, dated 13th November, 1886 [Paper No. 13].
From Secretary to Chief Commissioner, Burma, No. 565—25 L., dated 17th November, 1886, and enclosure [Papers No. 14].

2. We have so altered the section which it was proposed by the Bill as introduced to substitute for section 125 of the Indian Evidence Act, 1872, as to limit its operation to the purpose stated in the preamble; and, following the plan of the Act, we have made the definition of "Revenue-officer" an *explanation* to the section instead of a sub-section thereof.

3. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India	14th, 21st and 28th August, 1886.
Fort Saint George Gazette	3rd September, 1886.
Bombay Government Gazette	19th August, 1886.
Calcutta Gazette	25th August, and 1st and 8th September, 1886.
North-Western Provinces and Oudh Government Gazette	21st and 28th August, and 4th September, 1886.
Punjab Government Gazette	19th and 26th August, and 2nd September, 1886.
Central Provinces Gazette	21st and 28th August, and 4th September, 1886.
Burma Gazette	4th, 11th and 18th September, 1886.
Assam Gazette	4th, 11th and 18th September, 1886.
Coorg District Gazette	1st October, 1886.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Maráthi	16th September, 1886.
	Gujaráthi	23rd September, 1886.
	Kanarese	30th September, 1886.
Bengal	Bengali	21st and 28th September, and 5th October, 1886.
	Hindi	28th September, and 5th and 12th October, 1886.
	Uriya	30th September, and 7th and 14th October, 1886.
North-Western Provinces and Oudh	Urdu	11th, 18th and 25th September, 1886.
Burma	Burmese	25th September, and 2nd and 9th October, 1886.
Assam	Bengali	2nd October, 1886.

4. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

ANDREW R. SCOBLE.
J. B. PEILE.
W. S. WHITESIDE.

The 4th January, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, FEBRUARY 10, 1887.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 28th January, 1887, and is hereby promulgated for general information :—

ACT No. V OF 1887.

An Act to amend the Code of Criminal Procedure, 1882.

X of 1882. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

Amendment of section 4.

1. In the definition of "Officer in charge of a Police-station" in section 4, clause (*o*), of the said Code there shall be substituted for the word "therefrom" the words "from the station-house", and for the words "present at the Police-station" the words "present at the station-house".

Amendment of section 312.

2. In section 312 of the said Code the word "four" shall be substituted for the word "two".

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

10

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, FEBRUARY 24, 1887.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 11th February, 1887, and is hereby promulgated for general information:—

ACT NO. VI OF 1887.

An Act to amend the Indian Companies Act, 1882.

82. WHEREAS it is expedient to amend the Indian Companies Act, 1882, in manner hereinafter appearing; It is hereby enacted as follows:—

82. Insertion of new section after section 200.

1. After section 200 of the Indian Companies Act, 1882, the following section shall be inserted, namely:—

Priority of debts.

"200A. (*1*) In the distribution of the assets of any company being wound up under this Act, there shall be paid in priority to all other debts—

"(*a*) all revenue, taxes, cesses and rates, whether payable to Her Majesty or to a local authority, due from the company at the date of the commencement of the winding-up, and having become due and payable within the twelve months next before that date;

"(*b*) all wages or salary of any clerk or servant in respect of services rendered to the company within the two months next before the commencement of the winding-up, not exceeding one thousand rupees for each clerk or servant; and

"(*c*) all wages of any labourer or workman, not exceeding five hundred rupees for each, whether payable for time or piece-work, in respect of services rendered to the company within the two months next before the commencement of the winding-up.

"(*2*) The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions among themselves.

"(*3*) Subject to the retention of such sums as may be necessary for the cost of administration or otherwise, the liquidator or official liquidator shall discharge the foregoing debts forthwith, so far as the assets of the company are and will be sufficient to meet them, as and when the assets come into the hands of the liquidator or official liquidator."

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the Indian Companies Act, 1882, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th January, 1887:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Companies Act, 1882, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

From Secretary to Chief Commissioner, Assam, No. 1657, dated 14th August, 1885 [Paper No. 1].
From Registrar, High Court, Calcutta, No. 2097, dated 25th August, 1886 [Paper No. 2].
From Secretary for Berar to Resident, Hyderabad, No. 290 G., dated 25th August, 1886 [Paper No 3].
From Under Secretary to Chief Commissioner, Central Provinces, No. 3980—233, dated 31st August, 1886 [Paper No. 4].
From Secretary to Chief Commissioner, Burma, No. 810—22 L., dated 31st August, 1886 [Paper No. 5].
From Chief Commissioner, Ajmere-Merwára, No. 1055—690-II, dated 14th September, 1886 [Paper No. 6].
From Secretary to Chief Commissioner, Coorg, No. 1670—3256, dated 14th September, 1886 [Paper No. 7].
From Chief Secretary to Government, Madras, No. 2546, dated 23rd September, 1886, and enclosures [Papers No. 8].
From Secretary to Government, North-Western Provinces and Oudh, No. 767—VII—328-10, dated 2nd October, 1886 [Paper No. 9].
From Acting Under Secretary to Government, Bombay, No. 5813, dated 11th October, 1886, and enclosures [Papers No. 10].
Endorsement by Acting Chief Secretary to Government, Madras, No. 2863, dated 23rd October, 1886, and enclosures [Papers No. 11].
From Chief Secretary to Government, Bengal, No. 3322 J., dated 19th November, 1886, and enclosures [Papers No. 12].

2. Having regard to the priority which it is proposed by the Indian Bankruptcy Bill to give in express terms to fiscal debts due from a bankrupt to the Crown, we deem it desirable to give priority in similar terms to like debts due to the Crown from a Company which is being wound up. This saving may not be absolutely necessary in the case of debts due to the Crown (L. R. 9 Ch. D. 469 and 5 Bom. H. C. R. 23); but it is proposed, as in the Bankruptcy Bill, to give to rates and taxes payable to local authorities the same priority as to Crown debts, and in the case of some at least of those rates and taxes an express declaration of their priority will be necessary.

3. The salaries of clerks and servants being paid monthly in this country, we consider it will be sufficient to give priority to those salaries for the same time, namely, two months, as priority is given to wages of labourers and workmen by the Companies Act, 1883 (46 & 47 Vic., c. 28). But we agree with the Bengal Chamber of Commerce, the Calcutta Trades Association and other authorities that in this country it is proper to give priority to the salary of a clerk or servant for a larger sum than in England, and we have proposed to raise to Rs. 1,000 the limit up to which the salary of a clerk or servant is to have priority.

As regards the priority to be given to the wages of labourers and workmen, we propose to follow the Companies Act, 1883, in limiting it to wages in respect of services rendered during the two months before the commencement of the winding up.

4. The publication ordered by the Council has been made as follows :—

In English.

Gazette.	*Date.*
Gazette of India	7th, 14th and 31st July, 1886.
Fort Saint George Gazette	6th August, 1886.
Bombay Government Gazette	22nd July, 1886.
Calcutta Gazette	28th July, and 4th and 11th August, 1886.
North-Western Provinces and Oudh Government Gazette	24th and 31st July, and 7th August, 1886.
Punjab Government Gazette	22nd and 29th July, and 5th August, 1886.
Central Provinces Gazette	24th and 31st July, and 7th August, 1886.
Burma Gazette	7th, 14th and 21st August, 1886.
Assam Gazette	7th, 14th and 28th August, 1886.
Coorg District Gazette	1st September, 1886.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Maráthi	19th August, 1886.
	Gujaráthi	19th August, 1886.
Bengal	Bengali	24th and 31st August, 1886.
	Hindi	2nd, 14th, 21st and 28th September, 1886.
	Uriya	2nd, 14th, 21st and 28th September, 1886.
North-Western Provinces and Oudh	Urdu	21st and 28th August, and 4th September, 1886.
Central Provinces	Maráthi	1st, 8th and 15th September, 1886.
Burma	Burmese	4th, 11th and 18th September, 1886.

5. We are of opinion that the Bill should be re-published, and that it should not be further proceeded with till the expiration of one month from the date of the presentation of this Report.

ANDREW R. SCOBLE.
J. B. PEILE.
W. W. HUNTER.

The 7th January, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 11th February, 1887, and is hereby promulgated for general information :—

ACT NO. VII OF 1887.

An Act to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto; It is hereby enacted as follows :—

Title.

1. This Act may be called the Suits Valuation Act, 1887.

PART I.

SUITS RELATING TO LAND.

Extent and commencement of Part I.

2. This Part shall extend to such local areas, and come into force therein on such dates, as the Governor General in Council, by notification in the Gazette of India, directs.

Power for Local Government to make rules determining value of land for jurisdictional purposes.

3. (*1*) The Local Government may, with the previous sanction of the Governor General in Council, make rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (*d*). [...] of 1870.

(*2*) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of a local area, and may prescribe different values for different places within the same local area.

Valuation of relief in certain suits relating to land not to exceed the value of the land.

4. Where a suit mentioned in the Court-fees Act, 1870, section 7, paragraph iv, or Schedule II, article 17, relates to land or an interest in land of which the value has been determined by rules under the last foregoing section, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or interest as determined by those rules. [...] 1870.

Making and enforcement of rules.

5. (*1*) The Local Government shall, before making rules under section 3, consult the High Court with respect thereto.

(*2*) A rule under that section shall not take effect till the expiration of one month after the rule has been published in the local official Gazette.

Repeal of section 14 of the Madras Civil Courts Act, 1873.

6. On and from the date on which rules under section 3 take effect in any part of the territories under the administration of the Governor of Fort Saint George in Council to which the Madras Civil Courts Act, 1873, extends, section 14 of that Act shall be repealed as regards that part of those territories. III of 18[...]

PART II.

OTHER SUITS.

Extent and commencement of Part II.

7. This Part extends to the whole of British India, and shall come into force on the first day of July, 1887.

Court-fee value and jurisdictional value to be the same in certain suits.

8. Where in suits other than those referred to in the Court-fees Act, 1870, section 7, paragraphs v, vi and ix, and paragraph x, clause (*d*), court-fees are payable *ad valorem* under the Court-fees Act, 1870, the value as determinable for the computation of court-fees and the value for purposes of jurisdiction shall be the same. VII of 18[...]

Determination of value of certain suits by High Court.

9. When the subject-matter of suits of any class, other than suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (*d*), is such that in the opinion of the High Court it does not admit of being satisfactorily valued, the High Court may, with the previous sanction of the Local Government, direct that suits of that class shall, for the purposes of the Court-fees Act, 1870, and of this Act and any other enactment for the time being in force, be treated as if their subject-matter were of such value as the High Court thinks fit to specify in this behalf. VII of 1[...]

Repeal.

10. Section 32 of the Punjab Courts Act, 1884, is hereby repealed. XVIII of 1884.

PART III.

SUPPLEMENTAL PROVISIONS.

Procedure where objection is taken on appeal or revision that a suit or appeal was not properly valued for jurisdictional purposes.

11. (*1*) Notwithstanding anything in section 578 of the Code of Civil Procedure, an objection that by reason of the over-valuation or under-valuation of a suit or appeal a Court of first instance or lower appellate Court which had not jurisdiction with respect to the XIV of [...]

suit or appeal exercised jurisdiction with respect thereto shall not be entertained by an appellate Court unless—

(*a*) the objection was taken in the Court of first instance at or before the hearing at which issues were first framed and recorded, or in the lower appellate Court in the memorandum of appeal to that Court, or

(*b*) the appellate Court is satisfied, for reasons to be recorded by it in writing, that the suit or appeal was over-valued or under-valued, and that the over-valuation or under-valuation thereof has prejudicially affected the disposal of the suit or appeal on its merits.

(*2*) If the objection was taken in the manner mentioned in clause (*a*) of sub-section (*1*), but the appellate Court is not satisfied as to both the matters mentioned in clause (*b*) of that sub-section and has before it the materials necessary for the determination of the other grounds of appeal to itself, it shall dispose of the appeal as if there had been no defect of jurisdiction in the Court of first instance or lower appellate Court.

(*3*) If the objection was taken in that manner and the appellate Court is satisfied as to both those matters and has not those materials before it, it shall proceed to deal with the appeal under the rules applicable to the Court with respect to the hearing of appeals; but if it remands the suit or appeal, or frames and refers issues for trial, or requires additional evidence to be taken, it shall direct its order to a Court competent to entertain the suit or appeal.

(*4*) The provisions of this section with respect to an appellate Court shall, so far as they can be made applicable, apply to a Court exercising revisional jurisdiction under section 622 of the Code of Civil Procedure or other enactment for the time being in force.

(*5*) This section extends to the whole of British India, and shall come into force on the first day of July, 1887.

Proceedings pending at commencement of Part I or Part II.

12. Nothing in Part I or Part II shall be construed to affect the jurisdiction of any Court—

(*a*) with respect to any suit instituted before rules under Part I applicable to the valuation of the suit take effect, or Part II has come into force, as the case may be, or

(*b*) with respect to any appeal arising out of any such suit.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 28th January, 1887 :—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

From Officiating Secretary to Chief Commissioner, Assam, No. 2113, dated 2nd October, 1886 [Paper No. 1].
From Secretary to Chief Commissioner, Coorg, No. 1901—3726, dated 22nd October, 1886 [Paper No. 2].
From Chief Commissioner, Ajmere-Merwára, No. 1237—690—II, dated 28th October, 1886 [Paper No. 3].
From Chief Secretary to Government, Madras, No. 2878, dated 25th October, 1886, and enclosures [Papers No. 4].
From Under Secretary to Chief Commissioner, Central Provinces, No. 5147—393, dated 13th November, 1886, and enclosures [Papers No. 5].
From Secretary to Chief Commissioner, Burma, No. 350—26 L., dated 12th November, 1886, and enclosures [Papers No. 6].
From Secretary to Government, North-Western Provinces and Oudh, No. 883—VII-343, dated 20th November, 1886, and enclosures [Papers No 7].
From Secretary for Berar to Resident, Hyderabad, No. 429 G., dated 17th November, 1886, and enclosures [Papers No. 8].
From Acting Under Secretary to Government, Bombay, No. 6807, dated 23rd November, 1886, and enclosures [Papers No. 9].
From Chief Secretary to Government, Bengal, No. 3626 J., dated 7th December, 1886, and enclosures [Papers No. 10].
From Secretary to Government, Punjab, No. 1259, dated 20th December, 1886, and enclosures [Papers No. 11].
From Registrar, High Court, Calcutta, No. 18, dated 5th January, 1887 [Paper No. 12.]

2. We have divided the Bill into three Parts, of which Part I deals with suits relating to land and Part II with other suits, Part III containing supplemental provisions.

Part I is to be brought into force by notification of the Governor General in Council, and it is proposed that Part II and the material portion of Part III come into force on the first day of July next.

3. We have excepted from the operation of section 8 (section 4 of the Bill as introduced) the suits to which paragraph ix of section 7 of the Court-fees Act relates. In a suit for foreclosure or sale the principal and interest due under the mortgage-deed represent the value of the suit for purposes of jurisdiction, while the value for the computation of court-fees is the principal only.

4. We have added to the Bill a section in the terms of section 32 of the Punjab Courts Act, 1884, and have proposed to repeal that section of that Act.

5. We have so amended section 11 (section 5 of the Bill as introduced) as to give the appellate Court a discretion as to proceeding with an appeal in a suit which was insti-

tuted in a Court without jurisdiction as regards the value, and we have made the provisions of the section applicable to an appellate Court apply also to a Court exercising revisional jurisdiction.

6. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India	14th, 21st and 28th August, 1886.
Fort Saint George Gazette	3rd September, 1886.
Bombay Government Gazette	19th August, 1886.
Calcutta Gazette	25th August, and 1st and 8th September, 1886.
North-Western Provinces and Oudh Government Gazette	21st and 28th August, and 4th September, 1886.
Punjab Government Gazette	19th and 26th August, and 2nd September, 1886.
Central Provinces Gazette	21st and 28th August, and 4th September, 1886.
Burma Gazette	4th, 11th and 18th September, 1886.
Assam Gazette	28th August, and 11th and 18th September, 1886.
Coorg District Gazette	1st October, 1886.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Maráthi	30th September, 1886.
	Gujaráthi	14th October, 1886.
	Kanarese	30th September, 1886.
Bengal	Bengali	5th and 12th October, 1886.
	Hindi	21st and 28th September, and 5th October, 1886.
	Uriya	21st October, 1886.
North-Western Provinces and Oudh	Urdu	27th November, and 4th and 11th December, 1886.
Burma	Burmese	13th, 20th and 27th November, 1886.
Assam	Bengali	16th October, 1886.

7. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

ANDREW R. SCOBLE.
A. COLVIN.
V. N. MANDLIK.*
W. S. WHITESIDE.
RANA SHANKAR BAKSH.

The 28th January, 1887.

*IF we are to have an Act like this (the Bombay authorities do not see the necessity for one, and I entirely agree in their views), it should be either simultaneous with or follow the amending Court-fees Act; because the object of the Act is "to prescribe a simple mode of valuing suits," and that will depend on the rules laid down. These rules cannot be laid down now, because it is said we have no data for framing them, and they will take a long time to collect. If so, there can be no harm, it seems to me, in postponing the passing of the Act until we get all the materials before us. At present we are merely doing some administrative work; the real legislative work will be done by one of the executive departments. To such a procedure I am opposed on principle.

In other respects I agree with my colleagues.

V. N. MANDLIK.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 11th February, 1887, and is hereby promulgated for general information:—

ACT No. VIII OF 1887.

An Act to abolish Military Courts of Requests as established by Indian Military Law.

WHEREAS it is expedient to repeal that portion of the Indian Military Law which relates to Military Courts of Requests and other military tribunals having jurisdiction with respect to actions of a civil nature; It is hereby enacted as follows:—

Commencement.

1. This Act shall come into force on the first day of April, 1887.

Repeal.

2. The enactments mentioned in the schedule are hereby repealed to the extent specified in the third column thereof.

THE SCHEDULE.

ENACTMENTS REPEALED.

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Acts of the Governor General in Council.		
Act XI of 1841.	Military Courts of Requests for Native Officers and Soldiers.	So far as it has not been repealed.
Act XII of 1842.	Regulation of Military Bázárs and Liabilities of Camp-followers.	So far as it has not been repealed.
Act XXXIII of 1852.	Enforcement of judgments in places beyond the jurisdiction of the Courts pronouncing the same.	So far as it has not been repealed.
Acts of the Governor General in Council—continued.		
Act III of 1859.	Conferment of Civil Jurisdiction in certain cases on Cantonment Joint Magistrates.	So far as it has not been repealed.
Act XII of 1868.	Suspension of operation of section 17, Act XI, 1841.	The whole.
Act XV of 1874.	Laws Local Extent Act, 1874.	Clauses (*e*) and (*h*) of section 8; so much of the first schedule as relates to Acts XI of 1841, XII of 1842, XXXIII of 1852 and III of 1859; and so much of the second schedule as relates to Act XIV of 1855.
Act III of 1880.	Cantonments . .	Section 8.
Act XIV of 1882.	Code of Civil Procedure.	Clause (*b*) of section 6.
Act of the Governor of Madras in Council.		
Act I of 1866.	Cantonments . .	Section 9, down to and inclusive of the words "provided also that".

Number and year.	Subject or title.	Extent of repeal.
1	2	3
	Bengal Regulation.	
XX of 1810	Military Bazars .	Section 1, from and inclusive of the words "and it has further been deemed expedient, for the ease and security of dealers" down to and inclusive of the words "such retainers or traders".
	Bombay Regulation.	
XXII of 1827.	Military Authority .	The following portions so far as they have not been repealed, namely:— (*a*) the first clause of section 3; (*b*) the first twenty-seven words of the second clause of that section; (*c*) section 7; and (*d*) section 32.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to abolish Military Courts of Requests as established by Indian Militay Law was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 28th January, 1887:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to abolish Military Courts of Requests as established by Indian Military Law was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

From Under Secretary to Chief Commissioner, Central Provinces, No. 4858—283, dated 23rd October, 1886 [Paper No. 1].
From Officiating Secretary to Chief Commissioner, Assam, No. 2286, dated 22nd October, 1886 [Paper No. 2].
From Secretary to Chief Commissioner, Burma, No. 791—30 M., dated 29th October, 1886 [Paper No. 3].
From Secretary to Government, North-Western Provinces and Oudh, No. 909—VII-350, dated 29th November, 1886, and enclosures [Papers No. 4].
From Secretary to Chief Commissioner, Coorg, No. 2146—4426, dated 25th November, 1886, and enclosure [Papers No. 5].
From Chief Secretary to Government, Madras, No. 3107, dated 22nd November, 1886, and enclosures [Papers No. 6].
From Secretary for Berar to Resident, Hyderabad, No. 439 G., dated 29th November, 1886 [Paper No. 7].
From Acting Under Secretary to Government, Bombay, No. 6978, dated 30th November, 1886, and enclosures [Papers No. 8].
From Chief Commissioner, Ajmere-Merwára, No. 21 C., dated 4th December, 1886 [Paper No. 9].
From Registrar, High Court, Calcutta, No. 2733, dated 8th December, 1886 [Paper No. 10].
From Chief Secretary to Government, Bengal, No. 3625 J., dated 7th December, 1886 [Paper No. 11].

2. We have proposed that the Bill come into force on the first day of April, 1887. By that date translations will have been prepared and published, and Local Governments will have had time to complete such administrative arrangements as may be rendered necessary by the Bill.

3. We have added to the schedule of repeals those portions of the Laws Local Extent Act, 1874, which are connected with the subject-matter of the Bill, and a portion of Bengal Regulation XX of 1810 which has through oversight hitherto remained unrepealed.

4. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India	2nd, 9th and 16th October, 1886.
Fort Saint George Gazette	19th October, 1886.
Bombay Government Gazette	21st October, 1886.
Calcutta Gazette	13th, 20th and 27th October, 1886.
North-Western Provinces and Oudh Government Gazette	9th, 16th and 23rd October, 1886.
Punjab Government Gazette	7th, 14th and 21st October, 1886.
Central Provinces Gazette	9th, 16th and 23rd October, 1886.
Burma Gazette	23rd and 30th October, and 6th November, 1886.
Assam Gazette	23rd and 30th October, and 6th November, 1886.
Coorg District Gazette	1st November, 1886.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Maráthi	4th November, 1886.
	Gujaráthi	11th November, 1886.
	Kanarese	4th November, 1886.
Bengal	Bengali	2nd and 9th November, 1886.
	Hindi	30th November, 1886.
	Uriya	11th November, 1886.
Central Provinces	Maráthi	10th, 17th and 24th November, 1886.

5. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

G. CHESNEY.
J. B. PEILE.
ANDREW R. SCOBLE.
W. S. WHITESIDE.

The 28th January, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

322

7

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MARCH 10, 1887.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th February, 1887, and is hereby promulgated for general information:—

ACT NO. IX OF 1887.

THE PROVINCIAL SMALL CAUSE COURTS ACT, 1887.

CONTENTS.

The Provincial Small Cause Courts Act, 1887.

(Chapter I.—Preliminary.—Sections 1-4. Chapter II.—Constitution of Courts of Small Causes.—Sections 5-8.)

An Act to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns.

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes established beyond the local limits for the time being of the ordinary original civil jurisdiction of the High Courts of Judicature at Fort William in Bengal and at Madras and Bombay; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Provincial Small Cause Courts Act, 1887.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force on the first day of July, 1887.

Repeal.

2. (*1*) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.

(*2*) But all Courts constituted, limits fixed, places appointed, appointments, declarations and rules made, jurisdiction and powers conferred, forms prescribed, directions given and notifications published under Act No. XI of 1865 (*an Act to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*), or under any enactment repealed by that Act, shall, so far as may be, be deemed to have been respectively constituted, fixed, appointed, made, conferred, prescribed, given and published under this Act.

(*3*) Any enactment or document referring to Act No. XI of 1865 or to any enactment thereby repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof

Savings.

3. Nothing in this Act shall be construed to affect—

(*a*) any proceedings before or after decree in any suit instituted before the commencement of this Act; or

(*b*) the jurisdiction of a Magistrate under any law for the time being in force with respect to debts or other claims of a civil nature, or of Village Munsifs or Village Pancháyats under the provisions of the Madras Code, or of Village Munsifs under the Dekkhan Agriculturists' Relief Act, 1879; or XVI

(*c*) any local law or any special law other than the Code of Civil Procedure. XIV

Definition.

4. In this Act, unless there is something repugnant in the subject or context, "Court of Small Causes" means a Court of Small Causes constituted under this Act, and includes any person exercising jurisdiction under this Act in any such Court.

CHAPTER II.

CONSTITUTION OF COURTS OF SMALL CAUSES.

Establishment of Courts of Small Causes.

5. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by order in writing, establish a Court of Small Causes at any place within the territories under its administration beyond the local limits for the time being of the ordinary original civil jurisdiction of a High Court of Judcature established in a Presidency-town.

(*2*) The local limits of the jurisdiction of the Court of Small Causes shall be such as the Local Government may define, and the Court may be held at such place or places within those limits as the Local Government may appoint.

Judge.

6. (*1*) When a Court of Small Causes has been established, the Local Government shall, by order in writing, appoint a Judge of the Court.

(*2*) The Judge may be the Judge of one Court of Small Causes or of two or more such Courts, as the Local Government directs.

Appointment of times of sitting in certain circumstances.

7. (*1*) A Judge who is the Judge of two or more such Courts may, with the sanction of the District Court, fix the times at which he will sit in each of the Courts of which he is Judge.

(*2*) Notice of the times shall be published in such manner as the High Court from time to time directs.

Additional Judge.

8. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, by order in writing, appoint an Additional Judge of a Court of Small Causes or of two or more such Courts.

(*2*) The Additional Judge shall discharge such of the functions of the Judge of the Court or Courts as the Judge may assign to him, and in the discharge of those functions shall exercise the same powers as the Judge.

(*3*) The Judge may withdraw from the Additional Judge any business pending before him.

The Provincial Small Cause Courts Act, 1887.

(Chapter II.—Constitution of Courts of Small Causes.—Sections 9-14. Chapter III.—Jurisdiction of Courts of Small Causes.—Sections 15-16.)

(*4*) When the Judge is absent, the Additional Judge may discharge all or any of the functions of the Judge.

Suspension and removal of Judges.

9. A Judge or Additional Judge of a Court of Small Causes may be suspended or removed from office by the Local Government.

Power to require two Judges to sit as a bench.

10. The Local Government, after consultation with the High Court, may, by order in writing, direct that two Judges of Courts of Small Causes, or a Judge and an Additional Judge of a Court of Small Causes, shall sit together for the trial of such class or classes of suits or applications cognizable by a Court of Small Causes as may be described in the order.

Decision in case heard by a bench.

11. (*1*) If two Judges, or a Judge and an Additional Judge, sitting together under the last foregoing section differ as to a question of law or usage having the force of law, or in construing a document the construction of which may affect the merits, they shall draw up and refer, for the decision of the High Court, a statement of the facts of the case and of the point on which they differ in opinion, and the provisions of Chapter XLVI of the Code of Civil Procedure shall apply to the reference.

f1882.

(*2*) If they differ on any matter other than a matter specified in sub-section (*1*), the opinion of the Judge who is senior in respect of date of appointment as Judge of a Court of Small Causes, or, if one of them is an Additional Judge, then the opinion of the Judge sitting with him, shall prevail.

(*3*) For the purposes of sub-section (*2*), a Judge permanently appointed shall be deemed to be senior to an officiating Judge.

Registrar.

12. (*1*) The Local Government may appoint to a Court of Small Causes an officer to be called the Registrar of the Court.

(*2*) Where a Registrar is appointed, he shall be the chief ministerial officer of the Court.

(*3*) The Local Government may, by order in writing, confer upon a Registrar, within the local limits of the jurisdiction of the Court, the jurisdiction of a Judge of a Court of Small Causes for the trial of suits of which the value does not exceed twenty rupees.

(*4*) The Registrar shall try such suits cognizable by him as the Judge may, by general or special order, direct.

(*5*) A Registrar may be suspended or removed from office by the Local Government.

Other ministerial officers.

13. Subject to any enactment for the time being in force and to any orders made by the Local Government in this behalf, the law or practice for the time being applicable to the appointment, punishment and transfer of ministerial officers of a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which a Court of Small Causes is established shall, so far as it can be made applicable, apply to the appointment, punishment and transfer of ministerial officers of the Court of Small Causes other than the Registrar, if any, of that Court.

Duties of ministerial officers.

14. (*1*) The ministerial officers of a Court of Small Causes shall, in addition to any duties mentioned in this Act, or in any other enactment for the time being in force, as duties which are or may be imposed on any of them, discharge such duties of a ministerial nature as the Judge directs.

(*2*) The High Court may make rules consistent with this Act, and with any other enactment for the time being in force, conferring and imposing on the ministerial officers of a Court of Small Causes such powers and duties as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed are to be exercised and performed.

CHAPTER III.

JURISDICTION OF COURTS OF SMALL CAUSES.

Cognizance of suits by Courts of Small Causes.

15. (*1*) A Court of Small Causes shall not take cognizance of the suits specified in the second schedule as suits excepted from the cognizance of a Court of Small Causes.

(*2*) Subject to the exceptions specified in that schedule and to the provisions of any enactment for the time being in force, all suits of a civil nature of which the value does not exceed five hundred rupees shall be cognizable by a Court of Small Causes.

(*3*) Subject as aforesaid, the Local Government may, by order in writing, direct that all suits of a civil nature of which the value does not exceed one thousand rupees shall be cognizable by a Court of Small Causes mentioned in the order.

Exclusive jurisdiction of Courts of Small Causes.

16. Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

The Provincial Small Cause Courts Act, 1887.

(Chapter IV.—Practice and Procedure.—Sections 17-22.)

CHAPTER IV.

PRACTICE AND PROCEDURE.

Application of the Code of Civil Procedure.

XIV of 1882.

17. (*1*) The procedure prescribed in the chapters and sections of the Code of Civil Procedure specified in the second schedule to that Code, as amended by this Act, shall, so far as those chapters and sections are applicable, be the procedure followed in a Court of Small Causes in all suits cognizable by it and in all proceedings arising out of such suits:

Provided that an applicant for an order to set aside a decree passed *ex parte* or for a review of judgment shall, at the time of presenting his application, either deposit in the Court the amount due from him under the decree or in pursuance of the judgment, or give security to the satisfaction of the Court for the performance of the decree or compliance with the judgment, as the Court may direct.

(*2*) Where a person has become liable as surety under the proviso to sub-section (*1*), the security may be realized in manner provided by section 253 of the Code of Civil Procedure.

Trial of suits by Registrar.

18. (*1*) Suits cognizable by the Registrar under section 12, sub-sections (*3*) and (*4*), shall be tried by him, and decrees passed therein shall be executed by him, in like manner in all respects as the Judge might try the suits, and execute the decrees, respectively.

(*2*) The Judge may transfer to his own file, or to that of the Additional Judge if an Additional Judge has been appointed, any suit or other proceeding pending on the file of the Registrar.

Admission, return and rejection of plaints by Registrar.

19. (*1*) When the Judge of a Court of Small Causes is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may admit a plaint, or return or reject a plaint for any reason for which the Judge might return or reject it.

(*2*) The Judge may, of his own motion or on the application of a party, return or reject a plaint which has been admitted by the Registrar, or admit a plaint which has been returned or rejected by him:

Provided that, where a party applies for the return or rejection or the admission of a plaint under this sub-section, and his application is not made at the first sitting of the Judge after the day on which the Registrar admitted, or returned or rejected, the plaint, the Judge shall dismiss the application unless the applicant satisfies him that there was sufficient cause for not making the application at that sitting.

Passing of decrees by Registrar on confession.

20. (*1*) If, before the date appointed for the hearing of a suit, the defendant or his agent duly authorised in that behalf appears before the Registrar and admits the plaintiff's claim, the Registrar may, if the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, pass against the defendant, upon the admission, a decree which shall have the same effect as a decree passed by the Judge.

(*2*) Where a decree has been passed by the Registrar under sub-section (*1*), the Judge may grant an application for review of judgment, and re-hear the suit, on the same conditions, on the same grounds and in the same manner as if the decree had been passed by himself.

Execution of decrees by Registrar.

21. (*1*) If the Judge is absent, and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar may, subject to any instructions which he may have received from the Judge or, with respect to decrees or orders made by an Additional Judge, from the Additional Judge, make any orders in respect of applications for the execution of decrees and orders made by the Court of which he is Registrar, or sent to that Court for execution, which the Judge might make under this Act.

(*2*) The Judge, in the case of any decree or order with respect to the execution of which the Registrar has made an order under sub-section (*1*), or the Additional Judge, in the case of any such decree or order which has been made by himself and with respect to which proceedings have not been taken by the Judge under this sub-section, may, of his own motion, or on application made by a party within fifteen days from the date of the order of the Registrar or, of the execution of any process issued in pursuance of that order, reverse or modify the order.

(*3*) The period of fifteen days mentioned in sub-section (*2*) shall be computed in accordance with the provisions of the Indian Limitation Act, 1877, as though the application of the party were an application for review of judgment. XV o

Adjournment of cases by chief ministerial officer.

22. When the Judge of a Court of Small Causes is absent and an Additional Judge has not been appointed or, having been appointed, is also absent, the Registrar or other chief ministerial officer of the Court may exercise from time to time the power which the Court possesses of adjourning the hearing of any suit or other proceeding, and fix a day for the further hearing thereof.

The Provincial Small Cause Courts Act, 1887.

(Chapter IV.—Practice and Procedure.—Sections 23-27. Chapter V.—Supplemental Provisions.—Sections 28-31.)

Return of plaints in suits involving questions of title.

23. (*1*) Notwithstanding anything in the foregoing portion of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immoveable property or other title which such a Court cannot finally determine, the Court may at any stage of the proceedings return the plaint to be presented to a Court having jurisdiction to determine the title.

(*2*) When a Court returns a plaint under sub-section (*1*), it shall comply with the provisions of the second paragraph of section 57 of the
882. Code of Civil Procedure and make such order with respect to costs as it deems just, and the Court shall, for the purposes of the Indian Limit-
1877. ation Act, 1877, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

Appeals from certain orders of Courts of Small Causes. (882.)

24. Where an order specified in section 588, clause (*29*), of the Code of Civil Procedure is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

Revision of decrees and orders of Courts of Small Causes.

25. The High Court, for the purpose of satisfying itself that a decree or order made in any case decided by a Court of Small Causes was according to law, may call for the case and pass such order with respect thereto as it thinks fit.

Amendment of the second schedule to the Code of Civil Procedure. (882.)

26. In the second schedule to the Code of Civil Procedure—

(*a*) for "CHAPTER VIII.—Section 111, Set-off" the following shall be substituted, namely :—

"CHAPTER VIII.—Of Written Statements and Set-off";

(*b*) the following shall be inserted between the portion of the schedule referring to CHAPTER XV and that referring to CHAPTER XVII, namely :—

"CHAPTER XVI.—Of Affidavits";

(*c*) in the particulars against CHAPTER XIX, for "275 to 280 (both inclusive), 283" the following shall be substituted, namely :—

"275 to 283 (both inclusive)";

(*d*) for "CHAPTER XLVII.—Of Review of Judgment" the following shall be substituted, namely :—

"CHAPTER XLVII.—Of Review of Judgment, sections 623, 626 and 630"; and

(*e*) for "CHAPTER XLIX.—Miscellaneous, sections 640 to 647 (both inclusive), sections 649 to 652 (both inclusive)" the following shall be substituted, namely :—

"CHAPTER XLIX.—Miscellaneous."

Finality of decrees and orders.

27. Save as provided by this Act a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.

CHAPTER V.

SUPPLEMENTAL PROVISIONS.

Subordination of Courts of Small Causes.

28. (*1*) A Court of Small Causes shall be subject to the administrative control of the District Court and to the superintendence of the High Court, and shall—

(*a*) keep such registers, books and accounts as the High Court from time to time prescribes, and

(*b*) comply with such requisitions as may be made by the District Court, the High Court or the Local Government for records, returns and statements in such form and manner as the authority making the requisition directs.

(*2*) The relation of the District Court to a Court of Small Causes, with respect to administrative control, shall be the same as that of the District Court to a Civil Court of the lowest grade competent to try an original suit of the value of five thousand rupees in that portion of the territories administered by the Local Government in which the Court of Small Causes is established.

Seal.

29. A Court of Small Causes shall use a seal of such form and dimensions as are prescribed by the Local Government.

Abolition of Courts of Small Causes.

30. The Local Government may, by order in writing, abolish a Court of Small Causes.

Saving of power to appoint Judge of Court of Small Causes to other office.

31. (*1*) Nothing in this Act shall be construed to prevent the Local Government from appointing a person who is a Judge or Additional Judge of a Court of Small Causes to be also a Judge of any other Civil Court or to be a Magistrate of any class or to hold any other public office.

(*2*) When a Judge or Additional Judge is so appointed, the ministerial officers of his Court shall, subject to any rules which the Local Government may make in this behalf, be deemed to be ministerial officers appointed to aid him in the discharge of the duties of the other office.

The Provincial Small Cause Courts Act, 1887.

(*Chapter V.—Supplemental Provisions—Sections 32-37. The First Schedule.—Enactments repealed.*)

Application of Act to Courts invested with jurisdiction of Court of Small Causes.

32. (*1*) So much of Chapters III and IV as relates to—

(*a*) the nature of the suits cognizable by Courts of Small Causes,

(*b*) the exclusion of the jurisdiction of other Courts in those suits,

(*c*) the practice and procedure of Courts of Small Causes,

(*d*) appeal from certain orders of those Courts and revision of cases decided by them, and

(*e*) the finality of their decrees and orders subject to such appeal and revision as are provided by this Act,

applies to Courts invested by or under any enactment for the time being in force with the jurisdiction of a Court of Small Causes so far as regards the exercise of that jurisdiction by those Courts.

(*2*) Nothing in sub-section (*1*) with respect to Courts invested with the jurisdiction of a Court of Small Causes applies to suits instituted or proceedings commenced in those Courts before the date on which they were invested with that jurisdiction.

Application of Act and Code to Court so invested as to two Courts.

33. A Court invested with the jurisdiction of a Court of Small Causes, with respect to the exercise of that jurisdiction, and the same Court, with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Act and the Code of Civil Procedure, be deemed to be different Courts. XIV of 1882.

Modification of Code as so applied.

34. Notwithstanding anything in the last two foregoing sections,—

(*a*) when, in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, or

(*b*) when a Court, in the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, sends a decree for execution to itself as a Court invested with the jurisdiction of a Court of Small Causes,—

the documents mentioned in section *224* of the Code of Civil Procedure shall not be sent with the decree unless in any case the Court, by order in writing, requires them to be sent. XIV of 1882.

Continuance of proceedings of abolished Courts.

35. (*1*) Where a Court of Small Causes, or a Court invested with the jurisdiction of a Court of Small Causes, has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(*2*) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure, as extended to Courts of Small Causes, or in any other enactment for the time being in force. X

Amendment of Indian Limitation Act.

36. In the third division of the second schedule to the Indian Limitation Act, 1877,— X

(*a*) after No. 160 the following shall be inserted, namely:—

"160A. For a review of judgment by a Provincial Court of Small Causes, or by a Court invested with the jurisdiction of a Provincial Court of Small Causes when exercising that jurisdiction.	Ditto.	The date of the decree or order."

and (*b*) in No. 173, the words, figures and letter "No. 160 A and" shall be inserted before the word and figures "No. 162."

Publication of certain orders.

37. All orders required by this Act to be made in writing by the Local Government shall be published in the official Gazette.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

Number and year.	Subject or title.	Extent of repeal.
1	2	3
Act XI of 1865.	Mufassal Small Cause Courts Act.	So much as has not been repealed.
Act VI of 1871.	Bengal Civil Courts Act.	Section 30.
Act III of 1873.	Madras Civil Courts Act.	Section 29, paragraph one.
Act XV of 1874.	Laws Local Extent Act.	So much of the first schedule as relates to Acts XI of 1865 and X of 1867.
Act XII of 1881.	North-Western Provinces Rent Act.	In section 2, the words and figures "and Act No. XI of 1865, section 52."
Regulation I of 1877.	Ajmere Courts Regulation.	Section 33.

The Provincial Small Cause Courts Act, 1887.

(The Second Schedule.—Suits excepted from the cognizance of a Court of Small Causes.)

THE SECOND SCHEDULE.

SUITS EXCEPTED FROM THE COGNIZANCE OF A COURT OF SMALL CAUSES.

(See section 15.)

(1) A suit concerning an act or order purporting to be done or made by the Governor General in Council or a Local Government, or by the Governor General or a Governor, or by a Member of the Council of the Governor General or of the Governor of Madras or Bombay, in his official capacity, or concerning an act purporting to be done by any person by order of the Governor General in Council or a Local Government;

(2) a suit concerning an act purporting to be done by any person in pursuance of a judgment or order of a Court or of a judicial officer acting in the execution of his office;

(3) a suit concerning an act or order purporting to be done or made by any other officer of the Government in his official capacity, or by a Court of Wards, or by an officer of a Court of Wards in the execution of his office;

(4) a suit for the possession of immoveable property or for the recovery of an interest in such property;

(5) a suit for the partition of immoveable property;

(6) a suit by a mortgagee of immoveable property for the foreclosure of the mortgage or for the sale of the property, or by a mortgagor of immoveable property for the redemption of the mortgage;

(7) a suit for the assessment, enhancement, abatement or apportionment of the rent of immoveable property;

(8) a suit for the recovery of rent, other than house-rent, unless the Judge of the Court of Small Causes has been expressly invested by the Local Government with authority to exercise jurisdiction with respect thereto;

(9) a suit concerning the liability of land to be assessed to land-revenue;

(10) a suit to restrain waste;

(11) a suit for the determination or enforcement of any other right to or interest in immoveable property;

(12) a suit for the possession of an hereditary office or of an interest in such an office, including a suit to establish an exclusive or periodically recurring right to discharge the functions of an office;

(13) a suit to enforce payment of the allowance or fees respectively called *málikána* and *hakk*, or of cesses or other dues when the cesses or dues are payable to a person by reason of his interest in immoveable property or in an hereditary office or in a shrine or other religious institution;

(14) a suit to recover from a person to whom compensation has been paid, the whole X of 1870.
Land Acquisi[illegible] part of the compensation;

(15) a suit for the specific performance or rescission of a contract;

(16) a suit for the rectification or cancellation of an instrument;

(17) a suit to obtain an injunction;

(18) a suit relating to a trust, including a suit to make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust, and a suit by a co-trustee to enforce against the estate of a deceased trustee a claim for contribution;

(19) a suit for a declaratory decree, not being a suit instituted under section 283 or section 332 of the Code of Civil Procedure; XIV of 18

(20) a suit instituted under section 283 or section 332 of the Code of Civil Procedure;

(21) a suit to set aside an attachment by a Court or a revenue-authority, or a sale, mortgage, lease or other transfer by a Court or a revenue-authority or by a guardian;

(22) a suit for property which the plaintiff has conveyed while insane;

(23) a suit to alter or set aside a decision, decree or order of a Court or of a person acting in a judicial capacity;

(24) a suit to contest an award;

(25) a suit upon a foreign judgment as defined in the Code of Civil Procedure or upon a judgment obtained in British India;

(26) a suit to compel a refund of assets improperly distributed under section 295 of the Code of Civil Procedure;

(27) a suit under the Indian Succession Act, 1865, section 320 or section 321, or under the Probate and Administration Act, 1881, section 139 or section 140, to compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets; X of 186 V of 188

(28) a suit for a legacy or for the whole or a share of a residue bequeathed by a

The Provincial Small Cause Courts Act, 1887.

(The Second Schedule.—Suits excepted from the cognizance of a Court of Small Causes.)

testator, or for the whole or a share of the property of an intestate;

(29) a [illegible]—

(*a*) for a dissolution of partnership or for the winding-up of the business of a partnership after its dissolution;

(*b*) for an account of partnership-transactions; or

(*c*) for a balance of partnership-account, [illegible] the balance has been struck by the [illegible] their agents;

(30) a suit for an account of property [illegible] its due administration under decree;

(31) any other suit for an account, including a suit by a mortgagor, after the mortgage has been satisfied, to recover surplus collections received by the mortgagee, and a suit for the profits of immoveable property belonging to the plaintiff which have been wrongfully received by the defendant;

(32) a suit for a general average loss or for salvage;

(33) a suit for compensation in respect of collision between ships;

(34) a suit on a policy of insurance or for the recovery of any premium paid under any such policy;

(35) a suit for compensation—

(*a*) for loss occasioned by the death of a person caused by actionable wrong;

(*b*) for wrongful arrest, restraint or confinement;

(*c*) for malicious prosecution;

(*d*) for libel;

(*e*) for slander;

(*f*) for adultery or seduction;

(*g*) for breach of contract of betrothal or promise of marriage;

(*h*) for inducing a person to break a contract made with the plaintiff;

(*i*) for obstruction of an easement or diversion of a watercourse;

(*j*) for illegal, improper or excessive distress or attachment;

(*k*) for improper arrest under Chapter XXXIV of the Code of Civil Procedure, or in respect of the issue of an injunction wrongfully obtained under Chapter XXXV of that Code; or

(*l*) for injury to the person in any case not specified in the foregoing sub-clauses of this clause;

(36) a suit by a Muhammadan for exigible (*mu'ajjal*) or deferred (*mu'wajjal*) dower;

(37) a suit for the restitution of conjugal rights, for the recovery of a [illegible]ife, for the custody of a minor, or for a divo[illegible];

(38) a suit relating [illegible]nance;

(39) a suit for arrears of land-revenue, village-expenses or other sums payable to the representative of a village-community or to his heir or other successor in title;

(40) a suit for profits payable by the representative of a village-community or by his heir or other successor in title after payment of land-revenue, village-expenses and other sums;

(41) a suit for contribution by a sharer in joint property in respect of a payment made by him of money due from a co-sharer, or by a manager of joint property, or a member of an undivided family, in respect of a payment made by him on account of the property or family;

(42) a suit by one of several joint mortgagors of immoveable property for contribution in respect of money paid by him for the redemption of the mortgaged property;

(43) a suit against the Government to recover money paid under protest in satisfaction of a claim made by a revenue-authority on account of an arrear of land-revenue or of a demand recoverable as an arrear of land-revenue;

(44) a suit the cognizance whereof by a Court of Small Causes is barred by any enactment for the time being in force.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 11th February, 1887:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to consolidate and amend the law relating to Courts of Small Causes established beyond the Presidency-towns was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

From Mr. P. R. Desai, Pleader, District Court, Satára, dated 30th December, 1885 [Paper No. 1].
From Bábú Upendra Nath Mittra, Vakil, High Court, Calcutta, dated 3rd February, 1886 [Paper No. 2].
From Mahomed Mahmád Husayn, Pleader, Upper Grade, Allahabad, dated 13th February, 1886 [Paper No. 3].
From Secretary to Chief Commissioner, Assam, No. 401, dated 20th February, 1886 [Paper No. 4].
Memorandum by Lala Sanwal Singh, Munsif, Jaunpur, North-Western Provinces [Paper No. 5].
From Chief Commissioner, Ajmere-Merwára, No. 345 C., dated 27th February, 1886, and enclosure [Papers No. 6].
From Secretary to Chief Commissioner, Coorg, No. 293—548, dated 2nd March, 1886, and enclosure [Papers No. 7].
From Acting Chief Secretary to Government, Madras, No. 531, dated 1st March, 1886, and enclosures [Papers No. 8].
From Under Secretary to Government, Bombay, No. 1463, dated 5th March, 1886, and enclosures [Papers No. 9].
From Secretary for Berar to Resident, Hyderabad, No. 66 G., dated 11th March, 1886, and enclosures [Papers No. 10].
Endorsement by Acting Chief Secretary to Government, Madras, No. 589, dated 8th March, 1886, and enclosures [Papers No. 11].
From Secretary to Government, North-Western Provinces and Oudh, No. 248—VII-246-19, dated 3rd April, 1886, and enclosures [Papers No. 12].
From Officiating Secretary to Chief Commissioner, British Burma, No. 33—7L., dated 2nd April, 1886 [Paper No. 13].
From Officiating Registrar, High Court, Calcutta, No. 940, dated 7th April, 1886 [Paper No. 14].
From Secretary to Government, Punjab, No. 456, dated 20th April, 1886, and enclosures [Papers No. 15].
From Secretary to Government, North-Western Provinces and Oudh, No. 397—VII-246-21, dated 2nd June, 1886, and enclosures [Papers No. 16].
From Officiating Chief Secretary to Government, Bengal, No. 545J.—D., dated 31st May, 1886, and enclosures [Papers No. 17].
From Under Secretary to Chief Commissioner, Central Provinces, No. 2667—152, dated 17th June, 1886, and enclosures [Papers No. 18].
From Chief Secretary to Government, North-Western Provinces and Oudh, No. 633—VII-246-22, dated 18th August, 1886, and enclosure [Papers No. 19].
From Secretary to Government, Punjab, No. 888, dated 26th August, 1886, and enclosures [Papers No. 20].

2. *Section 1.*—We consider that this measure should extend to the whole of British India, including the Scheduled Districts. We have, therefore, removed the words which excepted the Scheduled Districts from the operation of the proposed Act.

3. *Section 2.*—We have provided for the continuance of Courts established, and orders made, under the enactments repealed by Act XI of 1865.

4. *Section 3.*—We have provided that the Act is not to affect any proceedings before or after decree in any suit instituted before the commencement of the Act, and we have removed from the section the reference to Act III of 1859, that Act being about to be repealed by the Council of the Governor General. The reference to the Army Act of 1881 will be covered by the saving of special laws which we have proposed to add to the section.

5. *Section 4.*—Several of the definitions have, since the Bill was introduced, been enacted in the General Clauses Act, 1887. As section 2 of the Code of Civil Procedure extends to Courts of Small Causes, the definition of "District" and "District Court" seem to us to be superfluous.

6. *Section 5.*—We have transferred to this section the substance of section 28.

7. *Section 7.*—We have provided that the fixing of times of sitting by a Judge of more than one Court of Small Causes shall be subject to the sanction of the District Court.

8. *Section 9* (*section 10 of Bill as revised by us*).—We have provided for orders under this section being made after consultation with the High Court.

9. *Section 11* (*section 12 of Bill as revised*).—We have proposed that the Registrar of a Court of Small Causes shall be appointed, not by the Judge of the Court, but, as under Act XI of 1865, by the Local Government.

10. *Sections 12 and 13* (*section 13 of Bill as revised*).—It is proposed to make the establishment of a Court of Small Causes part of the Civil Court Ministerial Service of the district in which the Court is situate.

11. *Section 14.*—We have so amended this section as to leave unfettered the discretion of High Courts as to the powers and duties which may by rules under the section be conferred and imposed on ministerial officers of Courts of Small Causes.

12. *Section 16.*—We have proposed to omit this section on the ground of its being not more necessary in the case of Courts of Small Causes than in that of other Courts.

13. *Section 19 (section 17 of Bill as revised).*—We have met the objections to proviso (*a*) by enabling the Court to take security for the performance of the decree instead of requiring the deposit of the amount of the decree, by omitting from the second schedule to the Code of Civil Procedure the dilatory sections of Chapter XLVII, and by extending the time within which an application may be made for a review of judgment.

Proviso (*b*) has been transferred to the Bill to amend the Code of Civil Procedure which is now pending before the Council of the Governor General.

14. *Section 20.*—We have given effect to the opinion, which is very generally expressed, that the whole of Chapter VIII of the Code should extend to Courts of Small Causes.

15. *Section 21.*—Seeing that sections 223 and 228 of the Code extend to Courts of Small Causes, this section seems to us to be unnecessary. We have therefore removed it from the Bill.

16. *Section 23 (section 19 of Bill as revised).*—We have acted on a suggestion that some discretion should be given to the Judge as to the admission or dismissal of an application which is made under this section subsequently to the first sitting of the Judge after the plaint was admitted, or returned or rejected, by the Registrar.

17. *Section 22 of Bill as revised.*—This section has been suggested to us by the Judge of the Courts of Small Causes at Surat and Broach.

18. *Section 23 of Bill as revised.*—This section is based on suggestions made by several Judges of experience in different parts of the country.

19. *Section 24 of Bill as revised.*—This section supplements the defective expression of section 589 of the Code of Civil Procedure.

20. *Section 25 of Bill as revised.*—The opinion appears to be universal that the ruling of the Privy Council in Amir Hassan Khan *versus* Sheo Baksh Singh (I. L. R. 11 Cal. 6) has rendered it absolutely necessary to extend the jurisdiction which the High Courts possess over the judicial proceedings of Courts of Small Causes and of other Courts invested with their powers. It is of course desirable that nothing should be done to encourage needless resort to the High Court, but, as the Hon'ble the Chief Justice and Judges of the High Court at Fort William have observed, this consideration should be one rather for the High Court than to be used to remove an important branch of the lower judicature from all control and so to deprive it of the advantage of a subordinate relation to that authority which exists for the express purpose of guiding the inferior tribunals by its exposition of the law.

21. *Section 26 of Bill as revised.*—The only part of this section which calls for notice here is that which applies Chapter XVI of the Code of Civil Procedure to Courts of Small Causes. That Chapter does apply to Presidency Courts and the balance of opinion is strongly in favour of making it applicable to Provincial Courts of Small Causes also.

22. *Section 29 (section 28 of Bill as revised.)*—We have added a sub-section descriptive of the nature of the administrative control to be vested in the District Court.

23. *Section 32 (section 31 of Bill as revised.)*—We have so expressed this section as to make it clear that the Local Government may appoint a Judge of a Court of Small Causes to be a Registrar under the Indian Registration Act, 1877, or to hold any other public office.

24. *Section 33, sub-section (1) (section 32, sub-section (1), of Bill as revised).*—We have added words supplementary to section 25 of the Bill as revised, and a sub-section for the purpose of solving a question which has frequently been raised.

25. *Section 34 of Bill as revised.*—This section is suggested by the case reported at I. L. R. 9 Bom. 237.

26. *Section 35 of Bill as revised.*—This section has been suggested by the opinions on the Bill, and follows a section inserted for the same purpose in the Bengal Civil Courts Bill now pending before the Council of the Governor General.

27. *The First Schedule.*—We have, we believe, completed the list of necessary repeals.

28. *The Second Schedule.*—By our amendments of this schedule we have placed the following suits within the cognizance of Provincial Courts of Small Causes, namely:—

(*a*) suits against local authorities, including municipalities;

(*b*) suits for recovery of rent of agricultural land in certain circumstances;

(*c*) suits for enforcement of lien on moveable property, and by pawnors for the redemption or recovery of pledges; and

(*d*) suits under section 283 and section 332 of the Code of Civil Procedure:

and we have excluded from the cognizance of those Courts the following suits, namely:—

(*a*) suits to recover from a person to whom compensation has been paid under the Land Acquisition Act, 1870, the whole or any part of the compensation;

(*b*) suits relating to trusts;

(*c*) suits for property which a plaintiff has conveyed while insane;

(*d*) suits on judgments;

(*e*) suits to compel refund of assets improperly distributed under section 295 of the Code of Civil Procedure;

(*f*) suits for the winding-up of the business of a partnership after its dissolution;

(*g*) suits for surplus collections of mortgaged property or for profits of immoveable property wrongfully received;

(*h*) suits for loss occasioned by the death of a person caused by actionable wrong;
(*i*) suits for compensation for certain torts;
(*j*) suits for dower;
(*k*) suits for custody of minors;
(*l*) suits for shares in perquisites of hereditary offices and in offerings at shrines; and
(*m*) suits by one of several joint mortgagors of immoveable property for contribution in respect of money paid for the redemption of the mortgaged property.

29. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India	19th and 26th December, 1885, and 2nd January 1886.
Fort Saint George Gazette	13th January, 1886.
Bombay Government Gazette	24th and 31st December, 1885, and 7th January, 1886.
Calcutta Gazette	23rd and 30th December, 1885, and 6th January, 1886.
North-Western Provinces and Oudh Government Gazette	26th December, 1885, and 2nd and 9th January, 1886.
Punjab Government Gazette	7th and 14th January, 1886.
Central Provinces Gazette	26th December, 1885, and 2nd and 9th January, 1886.
Burma Gazette	9th, 16th and 23rd January, 1886.
Assam Gazette	9th, 16th and 23rd January, 1886.
Coorg District Gazette	1st February, 1886.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras	Tamil	17th March, 1886.
	Telugu	17th March, 1886.
	Hindustáni	30th July, 1886.
	Kanarese	4th June, 1886.
	Malayalam	3rd March, 1886.
Bombay	Maráthi	4th February, 1886.
	Gujaráthi	4th February, 1886.
	Kanarese	11th February, 1886.
Bengal	Bengali	2nd and 9th February, 1886.
	Hindi	2nd February, 1886.
	Uriya	25th March, 1886.
North-Western Provinces and Oudh	Urdu	6th, 13th and 20th February, 1886.
Punjab	Urdu	4th February, 1886.
Central Provinces	Maráthi	24th February, 1886.
	Hindi	10th, 17th and 24th March, 1886.

30. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended by us.

ANDREW R. SCOBLE.
J. B. PEILE.
W. W. HUNTER.
V. N. MANDLIK.
PEÁRI MOHAN MUKERJI.

The 11th February, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 24th February, 1887, and is hereby promulgated for general information :—

ACT No. X OF 1887.

THE NATIVE PASSENGER SHIPS ACT, 1887.

CONTENTS.

The Native Passenger Ships Act, 1887.

(Chapter I.—Preliminary.—Sections 1-5. Chapter II.—Rules for all Voyages.—Section 6.)

CHAPTER VI.

SUPPLEMENTAL PROVISIONS.

An Act to consolidate and amend the law relating to Native Passenger Ships.

WHEREAS it is expedient to consolidate and amend the law relating to Native Passenger Ships; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title.

1. This Act may be called the Native Passenger Ships Act, 1887.

Extent and application.

2. (*1*) It extends to the whole of British India, and applies—

(*a*) to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty;

(*b*) to all native Indian subjects of Her Majesty without and beyond British India; and,

(*c*) subject to the exceptions mentioned in sub-section (*2*), to ships carrying as passengers more than thirty natives of Asia or Africa.

(*2*) But it does not apply—

(i) to any ship-of-war, troopship, transport or other ship belonging to the Royal Navy or Her Majesty's Indian Marine Service, or

(ii) to any other ship for the time being in the service of Her Majesty, or

(iii) to any ship-of-war belonging to any Foreign Prince or State, or

(iv) to any steam-ship not carrying as passengers more than sixty natives of Asia or Africa, or

(v) to any ship not intended to carry natives of Asia or Africa as passengers to or from any port in British India.

(*3*) Notwithstanding anything in sub-sections (*1*) and (*2*), the Local Government may, with the previous sanction of the Governor General in Council, declare all or any of the provisions of this Act to apply to sailing-ships, or any class of sailing-ships, carrying as passengers more than fifteen natives of Asia or Africa, and to steam-ships, or any class of steam-ships, carrying as passengers more than thirty such natives.

Commencement.

3. This Act shall come into force on such day as the Governor General in Council, by notification in the Gazette of India, appoints.

Repeal.

4. (*1*) On and from that day the enactments mentioned in the schedule shall be repealed to the extent specified in the third column thereof.

(*2*) But all ports, places and officers appointed, rules, declarations and exemptions made, bonds executed, directions given and certificates granted under any of those enactments shall, so far as may be, be deemed to be respectively appointed, made, executed, given and granted under this Act; and

(*3*) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

Definitions.

5. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "ship" means a ship to which this Act applies:

(*2*) "passenger" means a passenger by a ship who is a native of Asia or Africa of the age of twelve years or upwards and is not on the articles of the ship as one of the crew; but it does not include either a passenger in attendance on a person who is not a native of Asia or Africa, or a child under one year of age; and, in the computation of passengers for any of the purposes of this Act, two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one passenger:

(*3*) "long voyage" means, subject to the provisions of this Act, any voyage during which the ship performing it will in ordinary circumstances be one hundred and twenty hours or upwards continuously out of port:

(*4*) "short voyage" means, subject to the provisions of this Act, any voyage during which the ship performing it will not in ordinary circumstances be one hundred and twenty hours continuously out of port:

(*5*) "voyage", when used without the prefix "long" or "short", means the whole distance between the ship's port or place of departure and her final port or place of arrival:

(*6*) "Chief Customs-officer" means the chief executive officer of sea-customs in any port or place to which this Act applies: and

(*7*) "Magistrate" means a person exercising powers not inferior to those of a Magistrate of the second class.

CHAPTER II.

RULES FOR ALL VOYAGES.

Ships to sail only from places appointed by the Government.

6. (*1*) A ship carrying passengers shall not depart or proceed from, or discharge passengers at, any port or place within British

The Native Passenger Ships Act, 1887.

(Chapter II.—Rules for all Voyages.—Sections 7-14.)

India other than a port or place appointed in this behalf by the Local Government.

(2) After a ship has departed or proceeded on a voyage from a port or place so appointed, a person shall not be received on board as a passenger except at some other port or place so appointed.

Notice to be given of day of sailing.

7. (1) The master, owner or agent of a ship so departing or proceeding shall give notice to an officer appointed in this behalf by the Local Government that the ship is to carry passengers, and of her destination, and of the proposed time of sailing.

(2) The notice shall be given not less than twenty-four hours before that time.

Power to enter on and inspect ship.

8. After receiving the notice, the officer aforesaid or a person authorized by him shall be at liberty at all times to enter on the ship and inspect her and her fittings and the provisions and stores in her.

Ship not to sail without two certificates.

9. (1) A ship intended to carry passengers shall not commence a voyage from a port or place appointed under this Act, unless the master holds two certificates to the effect mentioned in the two next following sections.

(2) The officer whose duty it is to grant a port-clearance for the ship shall not grant it unless the master holds those certificates.

Contents of certificate A.

10. The first of the certificates (hereinafter called "certificate A") shall state that the ship is seaworthy and properly equipped, fitted and ventilated, and the number of passengers which she is capable of carrying.

Contents of certificate B.

11. The second of the certificates (hereinafter called "certificate B") shall state—

(a) the voyage which the ship is to make, and the intermediate ports, if any, at which she is to touch;

(b) that she has the proper complement of officers and seamen;

(c) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules;

(d) that the master holds certificate A;

(e) if the ship is to make a short voyage in a season of foul weather, and to carry upper-deck passengers, that she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather;

(f) if she is to carry passengers to any port in the Red Sea, that she is propelled principally by steam, and, if she is to carry more than one hundred passengers to any such port, that she has on board a medical officer licensed in accordance with the rules under this Act; and

(g) such other particulars, if any, as may be prescribed by those rules.

Grant of certificates.

12. The person by whom certificate A and certificate B are to be granted shall be the officer appointed under section 7.

Substitute for certificate A.

13. Where the master of a ship produces to that officer either of the following certificates, namely,—

(a) a valid certificate granted by the Board of Trade or by a British Colonial Government, or

(b) a certificate granted under the authority of a British Indian Government, on a date not more than one year before the proposed day of sailing, and in force and applicable to the voyage on which the ship is to proceed or the service on which she is about to be employed,

the officer may, if the particulars required by section 10 are certified thereby, take the certificate as evidence of those particulars, and it shall then be deemed to be a certificate A for the purposes of this Act.

Survey of ship.

14. (1) After receiving the notice required by section 7, the officer appointed under that section may, if he thinks fit, cause the ship to be surveyed at the expense of the master or owner by competent surveyors, who shall report to him whether the ship is, in their opinion, seaworthy and properly equipped, fitted and ventilated for the voyage which she is to make:

Provided that he shall not cause a ship holding a certificate mentioned in section 13, clause (a) or clause (b), to be surveyed unless, by reason of the ship having met with damage or having undergone alterations, or on other reasonable ground, he considers it likely that she may be found unseaworthy or not properly equipped, fitted or ventilated for the voyage.

(2) If the officer causes a survey to be made of a ship holding any such certificate, and the surveyors report that the ship is seaworthy and properly equipped, fitted and ventilated for the voyage, and that there was no reasonable ground why the officer should have thought it likely that she would be found unseaworthy, or not properly equipped, fitted or ventilated

The Native Passenger Ships Act, 1887.

(Chapter II.—Rules for all Voyages.—Sections 15-17. Chapter III.—Rules for Short Voyages.—Sections 18-20. Chapter IV.—Rules for Long Voyages.—Section 21.)

for the voyage, the expense of the survey shall be paid by the Local Government.

Discretion as to grant of certificate.

15. *(1)* The officer authorized to grant a certificate under this Act in respect of a ship shall not grant it unless he is satisfied that she has not on board any cargo likely from its quality, quantity or mode of stowage to prejudice the health or safety of the passengers.

(2) But save as aforesaid, and subject to the provisions of sub-section *(3)*, it shall be in the discretion of the officer to grant or withhold the certificate.

(3) In the exercise of that discretion that officer shall be subject to the control of the Local Government, and of any intermediate authority which that Government appoints in this behalf.

Copy of certificates to be exhibited.

16. The master or owner shall post up in a conspicuous part of the ship, so as to be visible to persons on board thereof, a copy of each of the certificates granted under this Act in respect of the ship, and shall keep those copies so posted up throughout the voyage.

Supply by passengers of their own food.

17. If an officer appointed in this behalf by the Local Government is satisfied that a passenger has brought on board a ship for his own use food of the quality and in the quantity for the time being prescribed by the rules under this Act, the requirements of this Act respecting the supply of food for passengers shall not apply so far as regards the supply of food for that passenger.

CHAPTER III.

RULES FOR SHORT VOYAGES.

Space to be available for passengers.

18. *(1)* For seasons of fair weather, a ship performing a short voyage shall, subject to the provisions of this Act, contain in the between-decks at least six superficial feet and thirty-six cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and six superficial feet available for each upper-deck passenger.

(2) For seasons of foul weather, a ship propelled by sails and performing a short voyage shall, subject as aforesaid, contain in the between-decks at least twelve superficial feet and seventy-two cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and twelve superficial feet available for each upper-deck passenger.

(3) For seasons of foul weather, a ship propelled by steam, or partly by steam and partly by sails, and performing a short voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every between-decks passenger, and on the upper-deck at least four superficial feet available for each such passenger and nine superficial feet available for each upper-deck passenger.

(4) But in seasons of foul weather a ship shall not carry upper-deck passengers unless she is furnished with substantial bulwarks and a double awning or with other sufficient protection against the weather.

Ship taking additional passengers at intermediate place.

19. If a ship performing a short voyage takes additional passengers on board at an intermediate port or place, the master shall obtain from the officer appointed at that port or place under section 7 a supplementary certificate stating—

(a) the number of passengers so taken on board, and

(b) that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for the ship by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the passengers on board during the voyage which the ship is to make (including such detention in quarantine as may be probable) according to the scale for the time being prescribed by those rules:

Provided that, if the certificate B held by the master of the ship states that food, fuel and pure water over and above what is necessary for the crew, and the other things, if any, prescribed for her by the rules under this Act, have been placed on board, of the quality prescribed by the rules, properly packed, and sufficient to supply the full number of passengers which she is capable of carrying, the master shall not be bound to obtain any such supplementary certificate.

Deaths on voyage.

20. When the ship reaches her final port or place of arrival, the master shall notify to such officer as the Governor General in Council appoints in this behalf the date and supposed cause of death of every passenger dying on the voyage.

CHAPTER IV.

RULES FOR LONG VOYAGES.

Space to be available for passengers.

21. *(1)* A ship propelled by sails and performing a long voyage shall, subject to the provisions of this Act, contain in the between-decks at least twelve

The Native Passenger Ships Act, 1887.

(Chapter IV.—Rules for Long Voyages.—Sections 22-30.)

superficial feet and seventy-two cubic feet of space available for every passenger.

(*2*) A ship propelled by steam, or partly by steam and partly by sails, and performing a long voyage, shall, subject as aforesaid, contain in the between-decks at least nine superficial feet and fifty-four cubic feet of space available for every passenger.

Statements concerning passengers.

22. The master of a ship departing or proceeding on a long voyage from any port or place in British India shall sign two statements, specifying the number and the respective sexes of all the passengers, and the number of the crew, and shall deliver them to the officer appointed under section 7, who shall thereupon, after having first satisfied himself that the numbers are correct, countersign and return to the master one of the statements.

Deaths on voyage.

23. The master shall note in writing on the statement returned to him, and on any additional statement to be made under the next following section, the date and supposed cause of death of any passenger who may die on the voyage, and shall, when the ship arrives at her port or place of destination or at any port or place at which it may be intended to land passengers, and, before any passengers leave the ship, produce the statement, with any additions thereto made, to a person lawfully exercising consular authority on behalf of Her Majesty at the port or place or to the Chief Customs-officer thereat or the officer (if any) appointed there under section 7.

Ship taking additional passengers at intermediate place.

24. (*1*) In either of the following cases, namely,—

(*a*) if after the ship has departed or proceeded on a long voyage any additional passengers are taken on board at a port or place within British India appointed under this Act for the embarkation of passengers, or

(*b*) if the ship upon her voyage touches or arrives at any such port or place, having previously received on board additional passengers at any place beyond British India,

the master shall obtain a fresh certificate to the effect of certificate B from the officer appointed at that port or place under section 7, and shall make additional statements specifying the number and the respective sexes of all the additional passengers.

(*2*) All the foregoing provisions of this Act with respect to certificate B and statements concerning passengers shall be applicable to any certificate granted or statement made under this section.

Certain ships to be propelled by steam.

25. A ship carrying passengers from or to any port in British India to or from any port in the Red Sea shall be propelled principally by steam.

Certain ships to carry medical officer.

26. A ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea shall have on board a medical officer licensed in accordance with the rules under this Act.

Ships carrying passengers to or from port in Red Sea to touch at Aden.

27. A ship carrying passengers from or to any port in British India other than Aden to or from any port in the Red Sea shall touch at Aden, and shall not leave that port without having obtained from the proper authority a clean bill of health.

Bill of health at Aden.

28. The authority at Aden empowered to grant the bill of health shall refuse to grant it if the ship has on board a greater number of passengers than the number allowed for the ship by or under this Act, and may refuse to grant it if the requirements of any rule under this Act are not complied with on board the ship.

Bond where ship clears for port in Red Sea.

29. In the case of a ship carrying passengers from any port in British India other than Aden to any port in the Red Sea, the officer whose duty it is to grant a port-clearance for the ship shall not grant the clearance unless and until the master, owner or agent of the ship and two sureties resident in British India have executed in favour of the Secretary of State for India in Council a joint and several bond, for the sum of five thousand rupees, conditioned—

(*a*) that the ship shall touch at Aden on the outward voyage and there obtain a clean bill of health, and shall do the same on the homeward voyage if the ship continues to carry more than sixty passengers, and

(*b*) that the master and medical officer (if any) of the ship shall comply with, on the outward voyage, and also on the homeward voyage if the ship continues to carry more than sixty passengers, the provisions of this Act and of such rules relating to ships carrying passengers between ports in British India and ports in the Red Sea as the Governor General in Council may make under this Act.

Power for Local Government to direct medical inspection of passengers.

30. (*1*) The Local Government may direct that no passenger shall be received on board any ship or any ship of a specified class carrying passengers from any port in British India to any port in the Red Sea unless and until the passenger has been inspected, at such time and place, and in such manner, as the Local Government may fix in this behalf, by a medical officer to be appointed by that Government for the purpose.

The Native Passenger Ships Act, 1887.

(Chapter V.—Penalties.—Sections 31-38.)

(2) If in the opinion of the officer making an inspection under this section a passenger is suffering from any dangerously infectious or contagious disease, the passenger shall not be permitted to embark.

CHAPTER V.

PENALTIES.

Penalty for ship unlawfully departing or receiving passengers on board.

31. If a ship departs or proceeds on a voyage from, or discharges passengers at, any port or place within British India in contravention of the provisions of section 6, sub-section (1), or section 9, or if a person is received as a passenger on board a ship in contravention of the provisions of section 6, sub-section (2), the master or owner shall, for every passenger carried in the ship, or for every passenger so discharged or received on board, be punished with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month, or with both, and the ship, if found within two years in any port or place within British India, may be seized and detained by a Chief Customs-officer until the penalties incurred under this Act by her master or owner have been adjudicated, and the payment of the fines imposed on him under this Act, with all costs, has been enforced, under the provisions of this Act:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed one year.

Penalty for opposing entry on or inspection of ships.

32. If a person impedes or refuses to allow the entry or inspection authorized by or under this Act, he shall be punished with fine which may extend to five hundred rupees for each offence, or with imprisonment for a term which may extend to three months, or with both.

Penalty for not exhibiting copy of certificates.

33. If a master or owner without reasonable excuse, the burden of proving which shall lie upon him, fails to comply with the requirements of section 16 with respect to the posting of copies of certificates, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

Penalty for not complying with requirements as to statements concerning passengers and certain other matters.

34. If a master fails to comply with any of the requirements of section 22 or section 23, as to the statements concerning passengers, or wilfully makes any false entry or note in or on any such statement, or without reasonable excuse, the burden of proving which shall lie upon him, fails to obtain any such supplementary certificate as is mentioned in section 19, or to report deaths as required by section 20, or to obtain any such fresh certificate, or to make any such statement of the number of additional passengers, as is mentioned in section 24, he shall be punished with fine which may extend to five hundred rupees for every such offence, or with imprisonment for a term which may extend to three months, or with both.

Penalty for fraudulent alteration in ship after certificate obtained.

35. If a master, after having obtained any of the certificates mentioned in section 9, section 19 or section 24, fraudulently does or suffers to be done anything whereby the certificate becomes inapplicable to the altered state of the ship, her passengers or other matters to which the certificate relates, he shall be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty for failing to supply passengers with prescribed provisions.

36. If a master without reasonable excuse, the burden of proving which shall lie upon him, omits to supply to any passenger the allowance of food, fuel and water prescribed by the rules under this Act, he shall be punished with fine which may extend to twenty rupees for every passenger who has sustained detriment by the omission.

Penalty for having excessive number of passengers on board.

37. (1) If a ship carrying passengers to or from any port or place in British India has on board a number of passengers which is greater than the number allowed for the ship by or under this Act, the master and owner shall, for every passenger over and above that number, be each punished with fine which may extend to twenty rupees, and the master shall further be liable to imprisonment for a term which may extend to one week in respect of each such passenger:

Provided that the aggregate term of imprisonment awarded under this section shall not exceed six months.

(2) Any officer authorized in this behalf by the Local Government may cause all passengers over and above the number allowed by or under this Act to disembark and may forward them to any port at which they may have contracted to land, and recover the cost of so forwarding them from the master or owner of the ship as if the cost were a fine imposed under this Act, and a certificate under the hand of that officer shall be conclusive proof of the amount of the cost aforesaid.

Penalty for bringing passengers from foreign port in excess of authorized number.

38. If a ship carrying passengers from any port or place beyond British India to any port or place in British India has on board a number of passengers greater either than the number allowed for the ship by or under this Act or than the number allowed by the license or certificate, if any, grant-

The Native Passenger Ships Act, 1887.

(Chapter V.—Penalties.—Sections 39-50.)

in respect of the ship at her port or place of departure, the master and owner shall, for every passenger in excess of that number, be each punished with fine which may extend to twenty rupees.

Penalty for landing passenger at a place other than that at which he has contracted to land.

39. If the master of a ship lands any passenger at any port or place other than the port or place at which the passenger may have contracted to land, unless with his previous consent, or unless the landing is made necessary by perils of the sea or other unavoidable accident, the master shall, for every such offence, be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to one month, or with both.

Penalty for making voyage in contravention of contract with passengers.

40. If a ship, otherwise than by reason of perils of the sea or other unavoidable accident, touches at any port or place in contravention of any express or implied contract or engagement with the passengers with respect to the voyage which the ship was to make and the time which that voyage was to occupy, whether the contract or engagement was made by public advertisement or otherwise, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master and owner of certain ships not propelled by steam.

41. If a ship carrying passengers from or to any port in British India to or from any port in the Red Sea is not propelled principally by steam as required by section 25, the master and owner shall each be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty on master of certain ships sailing without medical officer.

42. If a ship carrying more than one hundred passengers from or to any port in British India to or from any port in the Red Sea has not on board a medical officer as required by section 26, the master of the ship shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty for not obtaining bill of health at Aden.

43. If in the case of a ship to which section 27 applies the master without reasonable excuse, the burden of proving which shall lie upon him, fails to touch at Aden, or leaves that port without having obtained a bill of health under that section, he shall, for every such offence, be punished with fine which may extend to two thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty on master or medical officer of certain ships disobeying rules.

44. If in the case of any such ship as is referred to in the last foregoing section the master or the medical officer, if any, of the ship without reasonable excuse, the burden of proving which shall lie upon him, breaks, or omits or neglects to obey, any rule under this Act applicable to the ship, he shall be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

Penalty on master receiving passenger in contravention of section 30.

45. If the master of a ship to which a direction under section 30 applies knowingly receives on board the ship any person in contravention of that section, he shall be punished with fine which may extend to five hundred rupees for each person so received, or with imprisonment which may extend to three months, or with both.

Procedure.

Adjudication of offences, and levy of fine by distress on ship.

46. (*1*) Offences against this Act shall be punishable by a Magistrate.

(*2*) If the person on whom a fine is imposed under this Act is the master or owner of a ship, and the fine is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the ordinary means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the ship, her tackle, furniture and apparel.

Jurisdiction.

47. For the purpose of the adjudication of penalties under this Act, every offence against its provisions shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Authority to institute proceedings for penalties.

48. The penalties to which masters and owners of ships are made liable by this Act shall be enforced only on information laid at the instance of officers appointed to grant certificates under this Act, or, at any port or place where there is no such officer, at the instance of the Chief Customs-officer.

Application of fines.

49. A Magistrate imposing a fine under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any detriment which he may have sustained by the act or default in respect of which the fine is imposed, or in or towards payment of the expenses of the prosecution.

Depositions of absent witnesses.

50. (*1*) Whenever in the course of any legal proceeding under this Act the testimony of a witness is required in relation to the subject-matter of the proceeding, any deposition

The Native Passenger Ships Act, 1887.

(Chapter VI.—Supplemental Provisions.—Sections 51-53.)

which he may have previously made in relation to the same subject-matter before any Justice or Magistrate in Her Majesty's dominions (including all parts of India other than those subject to the same Local Government as the port or place where the proceeding is instituted), or before any British consular officer elsewhere, shall be admissible in evidence on proof that the witness cannot be found within the jurisdiction of the Court in which the proceeding is instituted:

Provided that the deposition shall not be admissible unless—

(*a*) it is authenticated by the signature of the Justice, Magistrate or consular officer;

(*b*) it was made in the presence of the person accused; and

(*c*) the fact that it was so made is certified by the Justice, Magistrate or consular officer.

(*2*) It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

CHAPTER VI.

Supplemental Provisions.

Information to be sent to ports of embarkation and discharge.

51. (*1*) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place within British India at which a ship carrying passengers touches or arrives, shall, with advertence to the provisions of this Act, send any particulars which he may deem important respecting the ship, and the passengers carried therein, to the officer at the port or place from which the ship commenced her voyage, and to the officer at any other port or place within British India where the passengers or any of them embarked or are to be discharged.

(*2*) The Chief Customs-officer, or other officer, if any, appointed by the Local Government in this behalf, at any port or place in British India at which a ship to which this Act applies touches or arrives, may enter on the ship and inspect her in order to ascertain whether the provisions of this Act as to the number of passengers and other matters have been complied with.

Report of Consul.

52. In any proceeding for the adjudication of any penalty incurred under this Act any document purporting to be a report of such particulars as are referred to in sub-section (*1*) of the last foregoing section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising consular authority on behalf of Her Majesty in any foreign port, shall be received in evidence, if it appears to have been officially transmitted to any officer at or near the place where the proceeding under this Act is had.

Power for Governor General in Council and Local Government to make rules.

53. (*1*) The Governor General in Council may make rules consistent with this Act to regulate, in the case of any ship or class of ships, all or any of the following matters:—

(*a*) the scale on which food, fuel and water are to be supplied to the passengers or to any class or classes of passengers, and the quality of the food, fuel and water;

(*b*) the medical stores and other appliances and fittings to be provided on board for maintaining health, cleanliness and decency;

(*c*) the licensing and appointment of medical officers in cases where they are required by this Act to be carried;

(*d*) the boats, anchors and cables to be provided on board;

(*e*) the instruments for purposes of navigation to be supplied;

(*f*) the apparatus for the purpose of extinguishing fires on board and the precautions to be taken to prevent such fires;

(*g*) the provision of appliances for saving life and of means for making signals of distress, and the supply of lights inextinguishable in water and fitted for attachment to life-buoys;

(*h*) the functions of the master, medical officer (if any) and other officers of the ship during the voyage;

(*i*) the access of between-decks passengers to the upper deck; and

(*j*) generally, to carry out the purposes of this Act.

(*2*) The Local Government may, with the previous sanction of the Governor General in Council, make rules consistent with this Act to regulate, in the case of any ship or class of ships,—

(*a*) the local limits within which, and the time and mode at and in which, passengers are to be embarked or discharged at any port or place appointed under this Act in that behalf; and

(*b*) the time within which the ship or any ship of the class is to depart or proceed on her voyage after commencing to take passengers on board.

(*3*) In making a rule under this section the authority making it may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may

The Native Passenger Ships Act, 1887.

(Chapter VI.—Supplemental Provisions.—Sections 54-57.) (Schedule.—Enactments repealed.)

extend to twenty rupees for every day after the first during which the breach continues.

(*4*) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

Appointment of officers.

54. The Local Government shall appoint such persons as it thinks fit to exercise and perform the powers and duties which are conferred and imposed by this Act or may be conferred and imposed thereunder.

Power to declare what shall be deemed "seasons of fair weather" and "long voyages".

55. The Governor General in Council may declare, by notification in the Gazette of India, what shall be deemed to be, for the purposes of this Act, "seasons of fair weather" and "seasons of foul weather", and, for sailing-ships and steam-ships respectively, a "long voyage" and a "short voyage".

Power to prescribe space to be available for passengers.

56. The Governor General in Council may by order prescribe in the case of any ship or class of ships and for all or any voyages the number of superficial or of cubic feet of space to be available for passengers; and the order shall be alternative to, or override, as the Governor General in Council may direct, the provisions of sections 18 and 21 so far as they apply to that ship or class of ships.

Power to exempt ship from provisions of Act.

57. (*1*) The Local Government, with the previous sanction of the Governor General in Council, may, subject to such conditions as it thinks fit, exempt any ship or class of ships from any provision of this Act.

(*2*) In imposing a condition under this section the Local Government may direct that a breach of it shall be punishable with fine which may extend to two hundred rupees, and when the breach is a continuing breach with a further fine which may extend to twenty rupees for every day after the first during which the breach continues.

SCHEDULE.

ENACTMENTS REPEALED.

(*See section 4.*)

Number and year.	Title.	Extent of repeal.
VIII of 1876	Native Passenger Ships Act, 1876.	The whole
XVII of 1883	Native Passenger Ships Act, 1883.	The whole.
VII of 1884	Indian Steam-ships Act, 1884.	Section 41.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to consolidate and amend the law relating to Native Passenger Ships, was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 11th February, 1887:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to consolidate and amend the law relating to Native Passenger Ships was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

From Secretary for Berar to Resident, Hyderabad, No. 326, dated 13th September, 1886 [Paper No. 1].
From Officiating Secretary to Chief Commissioner, Central Provinces, No. 4310—253, dated 22nd September, 1886 [Paper No. 2].
From Secretary to Chief Commissioner, Assam, No. 2039, dated 24th September, 1886 [Paper No. 3].
From Secretary to Government, Punjab, No. 1036, dated 22nd October, 1886 [Paper No. 4].
From Chief Commissioner, Ajmere-Merwára, No. 1225—690-II., dated 23rd October, 1886 [Paper No. 5].
From Secretary to Chief Commissioner, Coorg, No. 1903—3936, dated 22nd October, 1886 [Paper No. 6]
From Chief Secretary to Government, Madras, No. 2880, dated 25th October, 1886, and enclosures [Papers No. 7].
From Secretary to Chief Commissioner, Burma, No. 27—51 M. S., dated 2nd November, 1886 [Paper No. 8].
From Under Secretary to Government, North-Western Provinces and Oudh, No 860—VII-342, dated 12th November, 1886 [Paper No. 9].
From Acting Secretary to Government, Bombay, No. 3980, dated 15th November, 1886, and enclosures [Papers No. 10].
From Registrar, High Court, Calcutta, No. 2607, dated 24th November, 1886 [Paper No. 11].
Endorsement by Government, Madras, No. 3000, dated 10th November, 1886, and enclosure [Papers No. 12].
From Officiating Secretary to Government, Bengal, No. 3264, dated 10th December, 1886, and enclosures [Papers No. 13].

2. *Section 2.*—We have described more particularly the ships belonging to or in the service of Her Majesty to which the Act is not to apply, and we have omitted as redundant the clause in sub-section (*2*) declaring the Act not to apply to sailing-ships carrying not more than thirty passengers.

3. *Section 5*.—We have re-cast the definition of "passenger", and so amended that of "voyage" as to render unnecessary the *Illustration* to the definition of "short voyage". We have also modified, but not materially altered, the definitions of "Chief Customs-officer" and "Magistrate".

4. *Section 30, sub-section (1)*.—We have inserted the words "and in such manner" with the object of enabling Local Governments to issue suitable instructions with respect to the medical inspection of women embarking on passenger-ships.

5. *Chapter V*.—On the suggestion of the Solicitor to the Government of Bombay, we have thrown on the accused the burden of proving that certain infractions of the Act were unintentional or inevitable.

From section 38 (section 37 of Bill as revised by us) we have removed certain words, which had reference to the frame of the Native Passenger Ships Act of 1870 rather than of the Act of 1876 or of the Bill.

By the same section we have empowered local authorities to forward passengers landed from an overcrowded ship to any port at which they had contracted to land, whether that port is within or beyond the limits of British India.

6. *Section 51*.—We have required information respecting the state of passenger-ships to be sent not only to ports of departure but also to ports of destination.

7. *Section 53*.—We have specially provided in sub-section (1) that the Governor General in Council may make rules to regulate the supply of appliances for saving life, and in sub-section (2) that rules under that sub-section are to be made with the previous sanction of the Governor General in Council. In the latter sub-section we have further provided that rules may be made as to the time within which ships are to depart or proceed on their voyages after commencing to take passengers on board.

8. *Section 56 (formerly section 57)*.—We have provided that orders made by the Governor General in Council under this section may be alternative to, or override, the provisions of sections 18 and 21.

9. *Section 57 (formerly section 58)*.—We have added a sub-section providing for the enforcement of the conditions subject to which ships may be exempted from any of the provisions of the Act.

10. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India	28th August, and 4th and 11th September, 1886.
Fort Saint George Gazette	17th September, 1886.
Bombay Government Gazette	2nd October, 1886.
Calcutta Gazette	8th, 15th and 22nd September, 1886.
North-Western Provinces and Oudh Government Gazette	4th, 11th and 18th September, 1886.
Punjab Government Gazette	2nd, 9th and 16th September, 1886.
Central Provinces Gazette	4th, 11th and 18th September, 1886.
Burma Gazette	18th and 25th September, and 2nd October, 1886.
Assam Gazette	18th and 25th September, and 2nd October, 1886.
Coorg District Gazette	1st October, 1886.

In the Vernaculars.

Province.	*Language.*	*Date.*
Madras	Tamil	4th January, 1887.
	Telugu	21st December, 1886.
	Malayalam	18th January, 1887.
Bombay	Maráthi	18th November, 1886.
	Gujaráthi	18th November, 1886.
	Kanarese	18th November, 1886.
Bengal	Bengali	9th and 16th September, 1886.
	Hindi	16th, 23rd and 30th September, 1886.
	Uriya	18th and 25th November, and 2nd December, 1886.

11. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

A. COLVIN.
J. B. PEILE.
ANDREW R. SCOBLE.
ROBERT STEEL.
SYUD AMEER HOSSEIN.

The 11th February, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 25th February, 1887, and is hereby promulgated for general information :—

ACT NO. XI OF 1887.

An Act to provide for the regulation of traffic on the Sindh-Pishin Section of the North-Western Railway.

IV of 1879. WHEREAS it is inexpedient that the Indian Railway Act, 1879, so far as it applies to that part of the Sindh-Pishin section of the North-Western Railway which lies beyond the Province of Sindh, should apply thereto in its entirety; It is hereby enacted as follows :—

Title, extent and commencement.

1. (*1*) This Act may be called the Sindh-Pishin Railway Act, 1887.

(*2*) It shall extend to all persons for whom the Governor General in Council has power to make laws and regulations at meetings for that purpose ; and

(*3*) It shall come into force at once.

Definition.

2. In the following sections of this Act, "railway" means that part of the Sindh-Pishin section of the North-Western Railway which, whether completed at the commencement of this Act or not, lies beyond the Province of Sindh.

Application of Railway Act.

3. (*1*) Unless and until extended under this section, no portion of the Indian Railway Act, 1879, shall apply to any part of the railway. IV of

(*2*) The Governor General in Council may, by notification in the Gazette of India, extend to the railway or any part thereof such portions of that Act as he thinks fit.

(*3*) In extending any portion of that Act to the railway or any part thereof the Governor General in Council may extend it subject to such modifications as he thinks fit.

Carriage of passengers and property permissive only.

4. (*1*) No person shall be entitled, as of right, to be carried on the railway or to have property carried thereon ;

(*2*) But the carriage of passengers and property on the railway shall be permitted subject to such conditions and restrictions as the Governor General in Council may prescribe.

Exemption of the Government from liability for injury or loss.

5. Where any person or property is permitted to be carried on the railway, the Government shall not be responsible for any injury which may happen to the person, or for any loss or damage which may occur in respect of the property, unless the injury happens, or the loss or damage occurs, on a part of the railway with respect to which the Governor General in Council has, by notification in the Gazette of India, announced that the Government accepts responsibility, to such extent as may be described in the notification, for injury happening, or loss or damage occurring, thereon.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

STATEMENT OF OBJECTS AND REASONS.

THE Sindh-Pishin section of the North-Western Railway has been constructed for strategic purposes, and must be at times exclusively, and always preferentially, appropriated to the conveyance of troops, followers and military material and stores. Moreover, from the nature of the country through which the railway passes, some portions of the line are such as to render the risk of accident necessarily greater for a time at least than on ordinary railways.

In these circumstances it is proposed to enact that only such provisions of the Indian Railway Act, 1879, shall extend to this line as the Governor General in Council may consider it desirable to apply thereto. The Government does not propose to open the line generally for the conveyance of passengers and goods under ordinary conditions, but reserves the right to limit its responsibility for injury to the person, or loss of or damage to property, on certain portions of the line, which, as already remarked, was primarily designed for other purposes. Precedent for limiting the extent of the pecuniary responsibility of proprietors of railways for injury to the person is to be found in the Massachusetts Statutes of 1840 and in the New York Laws of 1847, and in regard to goods in the special contract permitted by the Indian Railway Act, 1879. But even if such precedents did not exist the circumstances of the case are such as to require legislation.

As a considerable part of the line lies in the territory of the Khán of Kalat and the proposed Act will not, as an Act of the Council of the Governor General for making Laws and Regulations, apply to the subjects of the Khán in that territory, it is proposed, by executive order made in exercise of the jurisdiction conferred by treaty on the Governor General in Council, to notify hereafter the substance of the proposed Act to be in force on the portion of the line which lies within Kalat.

The 24th February, 1887. T. C. HOPE.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MARCH 24, 1887.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 11th March, 1887, and is hereby promulgated for general information:—

ACT No. XIII OF 1887.

An Act to provide for the protection of person and property from the risks incident to the supply and use of electricity for lighting and other purposes.

WHEREAS it is expedient to control the supply and use of electricity for lighting and other purposes;

And whereas in the existing circumstances of the supply and use of electricity in India the exercise of that control by means of licenses or other like methods may be deferred, and it will suffice for the present to provide for the protection of person and property from the risks incident to such supply and use;

It is hereby enacted as follows:—

Title, extent and commencement.

1. (1) This Act may be called the Electricity Act, 1887.

(2) It shall extend to the whole of British India; and

(3) It shall come into force on the first day of July, 1887.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

(1) "electricity" includes galvanism, magnetism, magneto-electricity and electro-magnetism:

(2) expressions defined in the Indian Telegraph Act, 1885, have the meanings assigned to them in that Act:

(3) "purpose" includes any purpose except the transmission of a message: and

(4) "vessel" includes anything used for the conveyance by water of human beings or of property.

Notice of intention to supply or use electricity.

3. In either of the following cases, namely:—

(a) if a person intends to undertake the business of supplying electricity, or

(b) if a person intends to use electricity for any public purpose, or in any public place, or in any place where there is likelihood of the public being affected, or in a place in which one hundred or more persons are likely to be assembled, or in a place which is a factory within the meaning of the Indian Factories Act, 1881,

the person shall, one week at least before commencing the supply or use, give notice of his intention to the District Magistrate or, in a presidency-town, to the Commissioner of Police.

Power to make rules.

4. (1) The Governor General in Council may make such rules as he thinks expedient—

(a) for the protection of person and property from injury by reason of contact with, or the proximity of, appliances or apparatus used in the generation or supply of electricity, and

(b) for preventing telegraph-lines from being injuriously affected by any of those appliances or apparatus.

(2) The rules may, among other matters, authorise, or empower a Local Government or other authority to authorise, any officer, either by name or in virtue of his office, to enter, inspect and examine any place, carriage or vessel in which the officer has reason to believe any such appliances or apparatus to be.

(3) Any rules made in pursuance of this section shall be deemed to be within the powers conferred by this section on the Governor General in Council, and shall be of the same force as if enacted by this Act.

(4) The power to make rules under this section is subject to the condition of the rules being made after previous publication.

Penalties.

5. If a person undertakes the business of supplying electricity, or uses electricity for any such purpose or in any such place as is referred to in section 3, without giving the notice required by that section, or infringes any rule under section 4, or obstructs an officer in the exercise of his authority under any such rule to enter, inspect and examine any place, carriage or vessel, he shall be punished with fine which may extend to five hundred rupees, and, if he continues so to supply or use electricity or infringe the rule or obstruct the officer, after notice in writing to desist from so doing has been given to him by the District Magistrate or, in a presidency-town, by the Commissioner of Police, he shall be further punished with fine which may extend to one hundred rupees for every day during which such supply, use, infringement or obstruction continues.

Exercise for the purposes of the Government of the powers of the telegraph-authority.

6. The Governor General in Council may, for the placing of appliances and apparatus for the supply of electricity for any purpose of the Government, confer upon any public officer any of the powers which the telegraph-authority possesses under the Indian Telegraph Act, 1885, with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to regulate the supply of electricity for lighting and other purposes was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 4th March, 1887:—

LEGISLATIVE DEPARTMENT.

WE, the undersigned, Members of the Select Committee to which the Bill to regulate the supply of electricity for lighting and other purposes was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

From Under Secretary to Chief Commissioner, Central Provinces, No. 5220—307, dated 15th November, 1886 [Paper No. 1].
From Registrar, High Court, Calcutta, No. 2704, dated 2nd December, 1886 [Paper No. 2].
From Secretary to Chief Commissioner, Assam, No. 2533, dated 7th December, 1886 [Paper No. 3].
From Secretary to Government, Punjab, No. 23, dated 8th January, 1887 [Paper No. 4].
From Secretary to Chief Commissioner, Burma, No. 585, dated 7th January, 1887, and enclosures [Papers No. 5].
From Secretary for Berar to Resident, Hyderabad, No. 11 G., dated 7th January, 1887, and enclosures [Papers No. 6].
From Secretary to Chief Commissioner, Coorg, No. 39—4796, dated 8th January, 1887 [Paper No. 7].
From Acting Chief Secretary to Government, Madras, No. 38, dated 10th January, 1887, and enclosures [Papers No. 8].
From Chief Commissioner, Ajmere-Merwára, No. 31—690-II, dated 12th January, 1887 [Paper No. 9]
From Secretary to Government, Bombay, No. 3 T.—95, dated 19th January, 1887, and enclosure [Papers No. 10].
From K. Hedges, Esq., dated 10th February, 1887 [Paper No. 11].
From Officiating Secretary to Government, Bengal (Municipal), No. 807, dated 21st February, 1887, and enclosures [Papers No. 12].

2. The primary object of the Bill is to empower the Governor General in Council to make rules (*a*) for the protection of person and property from injury by reason of contact with, or the proximity of, appliances or apparatus used in the supply of electricity, and (*b*) for preventing telegraph-lines from being injuriously affected by any of those appliances or apparatus.

It appears to us that, in the present state of the electric lighting industry in India, it will suffice to make provision for the attainment of this object. We have therefore removed that portion of the original Bill which related to the grant of licenses, and have substituted in the preamble full warning that control by such or like methods may hereafter be necessary.

3. By section 3 of the Bill as amended by us we propose to require persons dealing in or using electricity to keep the authorities informed of their operations, and in section 4 we reproduce the substance of sections 8 and 9 of the original Bill respecting the making of rules by the Governor General in Council.

4. Section 5 relates to penalties, which we have reduced in amount.

5. By section 6 it is proposed to enable the Government to confer upon its officers, with respect to the placing of appliances, and apparatus for the supply of electricity for any purpose of the Government other than the transmission of messages, the same powers which the telegraph-authority possesses under the Indian Telegraph Act, 1885, with respect to the placing of telegraph lines and posts for the purposes of a telegraph established or maintained by the Government or to be so established or maintained.

6. The publication ordered by the Council has been made as follows :—

In English.

Gazette.	*Date.*
Gazette of India	23rd and 30th October, and 6th November, 1886.
Fort Saint George Gazette	2nd November, 1886.
Bombay Government Gazette	28th October, 1886.
Calcutta Gazette	3rd, 10th and 17th November, 1886.
North-Western Provinces and Oudh Government Gazette	30th October, and 6th and 13th November, 1886.
Punjab Government Gazette	28th October, and 4th and 11th November, 1886.
Central Provinces Gazette	30th October, and 13th and 20th November, 1886.
Burma Gazette	13th, 20th and 27th November, 1886.
Assam Gazette	13th, 20th and 27th November, 1886.
Coorg District Gazette	1st December, 1886.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Maráthi	13th January, 1887.
	Gujaráthi	6th January, 1887.
	Kanarese	27th January, 1887.

7. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

T. C. HOPE.
ANDREW R. SCOBLE.
J. B. PEILE.
ROBERT STEEL.
PEÁRI MOHAN MUKERJI.

The 4th March, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY SEPTEMBER 29, 1887.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 23rd September, 1887, and is hereby promulgated for general information:

ACT NO. XVI OF 1887.

THE PUNJAB TENANCY ACT, 1887.

CONTENTS.

An Act to amend the Law relating to the Tenancy of land in the Punjab.

WHEREAS it is expedient to amend the law relating to the tenancy of land in the Punjab; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Punjab Tenancy Act, 1887.

(*2*) It extends to the whole of the territories (including the pargana of Spiti) for the time being administered by the Lieutenant-Governor of the Punjab, except the Hazára district; and

(*3*) It shall come into force on such *day* as the Local Government, with the previous sanction of the Governor General in Council, may by notification appoint in this behalf.

Power to make rules in anticipation of commencement.

2. Any power conferred by this Act on the Financial Commissioner to make rules, and on the Local Government to sanction them, may be exercised at any time after the passing of this Act, but a rule so made shall not take effect till the commencement of this Act.

Repeal.

3. The enactments mentioned in the schedule are repealed to the extent specified in the third column thereof.

Definitions.

4. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "land" means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes the sites of buildings and other structures on such land:

(*2*) "pay", with its grammatical variations and cognate expressions, includes, when used with reference to rent, "deliver" and "render", with their grammatical variations and cognate expressions:

(*3*) "rent" means whatever is payable to a landlord in money, kind or service by a tenant on account of the use or occupation of land held by him:

(*4*) "arrear of rent" means rent which remains unpaid after the date on which it becomes payable:

(*5*) "tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that other person; but it does not include—

(*a*) an inferior landowner, or
(*b*) a mortgagee of the rights of a landowner, or
(*c*) a person to whom a holding has been transferred, or an estate or holding has been let in farm, under the Punjab Land-revenue Act, 1887, for the recovery of an arrear of land-revenue or of a sum recoverable as such an arrear, or XVII of 1
(*d*) a person who takes from the Government a lease of unoccupied land for the purpose of subletting it:

The Punjab Tenancy Act, 1887.
(Chapter I.—Preliminary.—Section 4. Chapter II.—Right of Occupancy.—Section 5.)

(6) "landlord" means a person under whom a tenant holds land, and to whom the tenant is, or but for a special contract would be, liable to pay rent for that land :

(7) "tenant" and "landlord" include the predecessors and successors in interest of a tenant and landlord respectively :

(8) "tenancy" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions :

(9) "estate", "landowner" and "holding" have the meanings respectively assigned to those words in the Punjab Land-revenue Act, 1887 :

(10) "land-revenue" means land-revenue assessed under any law for the time being in force or assessable under the Punjab Land-revenue Act, 1887, and includes—

(*a*) any rate imposed in respect of the increased value of land due to irrigation, and

(*b*) any sum payable in respect of land, by way of quit-rent or of commutation for service, to the Government or to a person to whom the Government has assigned the right to receive the payment :

(11) "rates and cesses" means rates and cesses which are primarily payable by landowners, and includes—

V of 1878. (*a*) the local rate, if any, payable under the Punjab Local Rates Act, 1878 ;

XX of 1883. (*b*) the local rate, if any, payable under the Punjab District Boards Act, 1883, and any fee leviable under section 33 of that Act from landowners for the use of or benefits derived from such works as are referred to in section 20, clauses (*i*) and (*j*), of that Act ;

VIII of 1873. (*c*) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873 ;

(*d*) the zaildári and village-officers' cesses ; and

(*e*) sums payable on account of village-expenses :

(12) "village-cess" includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service nor imposed by or under any enactment for the time being in force :

(13) "village-officer" means a chief-headman, headman or patwári :

(14) "Revenue-officer" or "Revenue Court", in any provision of this Act, means a Revenue-officer or Revenue Court having authority under this Act to discharge the functions of a Revenue-officer or Revenue Court, as the case may be, under that provision :

(15) "jágírdár" includes any person, other than a village-servant, to whom the land-revenue of any land has been assigned in whole or in part by the Government or by an officer of the Government :

(16) "legal practitioner" means any legal practitioner within the meaning of the Legal Practi-
XVIII 1879. tioners Act, 1879, except a mukhtár :

(17) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the Local Government may by notification appoint for any local area :

(18) "notification" means a notification published by authority of the Local Government in the official Gazette : and

(19) "improvement" means, with reference to a tenancy, any work which is suitable to the tenancy and consistent with the conditions on which it is held, by which the value of the tenancy has been and continues to be increased, and which, if not executed on the tenancy, is either executed directly for its benefit, or is, after execution, made directly beneficial to it ;

Explanation I.—It includes, among other things,—

(*a*) the construction of wells and other works for the storage or supply of water for agricultural purposes ;

(*b*) the construction of works for drainage and for protection against floods ;

(*c*) the planting of trees, the reclaiming, enclosing, levelling and terracing of land for agricultural purposes and other works of a like nature ;

(*d*) the erection of buildings required for the more convenient or profitable cultivation of a tenancy ; and

(*e*) the renewal or re-construction of any of the foregoing works, or such alterations therein, or additions thereto, as are not of the nature of mere repairs and as durably increase their value ;

But it does not include such clearances, embankments, levellings, enclosures, temporary wells and water-channels as are made by tenants in the ordinary course of cultivation and without any special expenditure, or any other benefit accruing to land from the ordinary operations of husbandry ;

Explanation II.—A work which benefits several tenancies may be deemed to be, with respect to each of them, an improvement ;

Explanation III.—A work executed by a tenant is not an improvement if it substantially diminishes the value of any other part of his landlord's property.

CHAPTER II.

RIGHT OF OCCUPANCY.

Tenants having right of occupancy. **5.** *(1)* A tenant—

(*a*) who at the commencement of this Act has for more than two generations in the male line of descent through a grandfather or grand-uncle and for a period of not less than twenty years been occupying land paying no rent therefor beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, or

(*b*) who having owned land, and having ceased to be landowner thereof otherwise than by forfeiture to the Government or than by any voluntary act, has, since he ceased to be landowner, continuously occupied the land, or

(*c*) who, in a village or estate in which he settled along with, or was settled by, the founder thereof as a cultivator therein, occupied land on the twenty-first day of October, 1868, and has continuously occupied the land since that date, or

(*d*) who, being jágírdár of the estate or any part of the estate in which the land occupied by him is situate, has continuously occupied the land for not less than twenty years, or, having been such jágírdár, occupied the land while he was jágírdár and

The Punjab Tenancy Act, 1887.
(Chapter II.—Right of Occupancy.—Sections 6-11. Chapter III.—Rent.—Sections 12-13.)

has continuously occupied it for not less than twenty years,

has a right of occupancy in the land so occupied, unless, in the case of a tenant belonging to the class specified in clause (*c*), the landlord proves that the tenant was settled on land previously cleared and brought under cultivation by, or at the expense of, the founder.

(*2*) If a tenant proves that he has continuously occupied land for thirty years and paid no rent therefor beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, it may be presumed that he has fulfilled the conditions of clause (*a*) of sub-section (*1*).

(*3*) The words in that clause denoting natural relationship denote also relationship by adoption, including therein the customary appointment of an heir, and relationship by the usage of a religious community.

Right of occupancy of other tenants recorded as having the right before passing of Punjab Tenancy Act, 1868.

6. A tenant recorded in a record-of-rights sanctioned by the Local Government before the twenty-first day of October, 1868, as a tenant having a right of occupancy in land which he has continuously occupied from the time of the preparation of that record, shall be deemed to have a right of occupancy in that land unless the contrary has been established by a decree of a competent Court in a suit instituted before the passing of this Act.

II of

Right of occupancy in land taken in exchange.

7. If the tenant has voluntarily exchanged the land, or any portion of the land, formerly occupied by him for other land belonging to the same landlord, the land taken in exchange shall be held to be subject to the same right of occupancy as that to which the land given in exchange would have been subject if the exchange had not taken place.

Establishment of right of occupancy on grounds other than those expressly stated in Act.

8. Nothing in the foregoing sections of this Chapter shall preclude any person from establishing a right of occupancy on any ground other than the grounds specified in those sections.

Right of occupancy not to be acquired by mere lapse of time.

9. No tenant shall acquire a right of occupancy by mere lapse of time.

Right of occupancy not to be acquired by joint owner in land held in joint ownership.

10. In the absence of a custom to the contrary no one of several joint owners of land shall acquire a right of occupancy under this Chapter in land jointly owned by them.

Continuance of existing occupancy-rights.

11. Notwithstanding anything in the foregoing sections of this Chapter, a tenant who immediately before the commencement of this Act has a right of occupancy in any land under an enactment specified in any line of the first column of the following table shall, when this Act comes into force, be held to have, for all the purposes of this Act, a right of occupancy in that land under the enactment specified in the same line of the second column of the table:—

PUNJAB TENANCY ACT, 1868.		THIS ACT.		
First Column.		Second Column.		
Section.	Clause.	Section.	Sub-section.	Clause.
5	(1)	5	(*1*)	(*a*)
5	(2)	5	(*1*)	(*b*)
5	(3)	5	(*1*)	(*c*)
5	(4)	5	(*1*)	(*d*)
6	...	6	...	...
8	...	8	...	...

XXVIII 1868.

CHAPTER III.

RENT.

Rents generally.

Respective rights of landlord and tenant to produce.

12. (*1*) The rent for the time being payable in respect of a tenancy shall be the first charge on the produce thereof.

(*2*) A tenant shall be entitled to tend, cut and harvest the produce of his tenancy in due course of husbandry without any interference on the part of his landlord.

(*3*) Except where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(*4*) Where rent is taken by division of the produce—

(*a*) the tenant shall be entitled to the exclusive possession of the whole produce until it is divided;

(*b*) the landlord shall be entitled to be present at, and take part in, the division of the produce; and

(*c*) when the produce has been divided, the landlord shall be entitled to the possession of his share thereof.

Commutation and alteration of rent.

13. (*1*) Where rent is taken by any of the following methods, namely:—

(*a*) by division or appraisement of the produce,

(*b*) by rates fixed with reference to the nature of the crops grown,

(*c*) by a rate on a recognised measure of area,

(*d*) by a rent in gross on the tenancy, or

(*e*) partly by one of the methods specified in clauses (*a*), (*b*) and (*c*) of this sub-section and partly by another or others of them,

one of those methods shall not be commuted in whole or in part into another without the consent of both landlord and tenant.

(*2*) In the absence of a contract or a decree or order of competent authority to the contrary, a tenant whose rent is taken by any of the methods specified in clauses (*a*), (*b*) and (*c*) of sub-section (*1*), or by the method specified in clause (*d*) of

that sub-section, shall not be liable to pay for a tenancy rent at any higher rate, or of a higher amount, as the case may be, than the rate or amount payable in respect of the tenancy for the preceding agricultural year.

Payments for land occupied without consent of landlord.

14. Any person in possession of land occupied without the consent of the landlord shall be liable to pay for the use or occupation of that land at the rate of rent payable in the preceding agricultural year, or, if rent was not payable in that year, at such rate as the Court may determine to be fair and equitable.

Collection of rents of undivided property.

15. When two or more persons are landlords of a tenant in respect of the same tenancy, the tenant shall not be bound to pay part of the rent of his tenancy to one of those persons and part to another.

Produce-rents.

Presumption with respect to produce removed before division or appraisement.

16. Where rent is taken by division or appraisement of the produce, if the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due division or appraisement thereof, or deals therewith in a manner contrary to established usage, the produce may be deemed to have been as full as the fullest crop of the same description on similar land in the neighbourhood for that harvest.

Appointment of referee for division or appraisement.

17. If either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division or appraisement of the produce, or if there is a dispute about the division or appraisement, a Revenue-officer may, on the application of either party, appoint such person as he thinks fit to be a referee to divide or appraise the produce.

Appointment of assessors and procedure of referee.

18. (*1*) When a Revenue-officer appoints a referee under the last foregoing section, he may, in his discretion, give him instructions with respect to the association with himself of any other persons as assessors, the number, qualifications and selection of those assessors, and the procedure to be followed in making the division or appraisement.

(*2*) The referee so appointed shall make the division or appraisement in accordance with any instructions which he may have received from the Revenue-officer under the last foregoing sub-section.

(*3*) Before making the division or appraisement the referee shall give notice to the landlord and the tenant of the time and place at which the division or appraisement will be made, but, if either the landlord or the tenant fails to attend either personally or by agent, the referee may proceed *ex parte*.

(*4*) For the purpose of making the division or appraisement, the referee, with his assessors, if any, may enter upon any land on which or into any building in which the produce is.

Procedure after division or appraisement.

19. (*1*) The result of the division or appraisement shall be recorded and signed by the referee, and the record shall be submitted to the Revenue-officer.

(*2*) The Revenue-officer shall consider the record, and, after such further inquiry, if any, as he may deem necessary, shall make an order either confirming or varying the division or appraisement.

(*3*) The Revenue-officer shall also make such order as to the costs of the reference as he thinks fit.

(*4*) The costs may include the remuneration of the referee and of the assessors, if any, and may be levied from the applicant before the appointment of the referee subject to adjustment at the close of the proceedings.

Enhancement of produce-rents of occupancy-tenants.

20. Where the rent of a tenant having a right of occupancy in any land is a share of the produce, or of the appraised value thereof, with or without an addition in money, or is paid according to rates fixed with reference to the nature of the crops grown, or is a rent in gross payable in kind, the tenant shall be entitled to occupy the land at that rent:

Provided that, when the land or any part thereof previously not irrigated or flooded becomes irrigated or flooded, the rent payable in respect of the land or part may, subject to the provisions of this Act, be enhanced to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for irrigated or flooded land of a similar description and with similar advantages.

Reduction of rents referred to in the last foregoing section.

21. When the land, or any part of the land, held by a tenant having a right of occupancy to whom the last foregoing section applies ceases to be irrigated or flooded, the rent payable in respect of the land or part may be reduced to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for unirrigated or unflooded land of a similar description and with similar advantages.

Cash-rents paid by Tenants having Right of Occupancy.

Enhancement of cash-rents of occupancy-tenants.

22. (*1*) Where a tenant having a right of occupancy pays his rent entirely by a cash-rate on a recognised measure of area or by a cash-rent in gross on his tenancy, the rent may be enhanced on the ground that, after deduction therefrom of the land-revenue of, and the rates and cesses chargeable on, the tenancy, it is—

(*a*) if the tenant belongs to the class specified in clause (*a*) of sub-section (*1*) of section 5, less than two annas per rupee of the amount of the land-revenue;

(*b*) if he belongs to any of the classes specified in clauses (*b*), (*c*) and (*d*) of that subsection, less than six annas per rupee of the amount of the land-revenue;

(*c*) if he belongs to the class specified in section 6, or if his right of occupancy is established under section 8 and his rent is not regulated by contract, less than twelve annas per rupee of the amount of the land-revenue.

(*2*) In a case to which sub-section (*1*) applies, the rent may be enhanced to an amount not exceeding two, six or twelve annas per rupee

The Punjab Tenancy Act, 1887.
(Chapter III.—Rent.—Sections 23-28.)

of the amount of the land-revenue, as the case may be, in addition to the amount of the land-revenue of the tenancy and the rates and cesses chargeable thereon.

Reduction of rents referred to in the last foregoing section.

23. The rent payable by a tenant to whom the last foregoing section applies may be reduced on the ground that the productive powers of his tenancy have been decreased by a cause beyond his control.

General Provisions relating to Suits for Enhancement or Reduction of Rent.

Enhancement and reduction of rent by suit.

24. (*1*) A Revenue Court, on the suit of either landlord or tenant, may, subject to the provisions of this and other sections of this Act, enhance or reduce the rent of any tenant having a right of occupancy.

(*2*) Where a decree for the enhancement of the rent of such a tenant has been passed under the Punjab Tenancy Act, 1868, a suit for a further enhancement of his rent shall not lie till the expiration of five years from the date of the decree, unless in the meantime the local area in which the land comprised in the decree is situate has been generally re-assessed and the revenue payable in respect of that land has been increased.

II of

(*3*) Subject to the provisions of sub-section (*2*), a suit instituted for the enhancement of the rent of a tenant having a right of occupancy shall not be entertained in either of the following cases, namely :—

(*a*) if within the ten years next preceding its institution his rent has been commuted under section 13 or enhanced under this section,

(*b*) if within that period a decree has been passed under this Act dismissing on the merits a suit for the enhancement of his rent;

unless the land or some part of the land comprised in his tenancy, not having been irrigated or flooded at the time of such commutation, enhancement or decree, has become irrigated or flooded.

Discretion as to extent of enhancement or reduction.

25. In enhancing or reducing the rent of any land under the foregoing provisions of this Chapter, the Court shall, within the limits prescribed by those provisions, enhance or reduce the rent to such an amount as it considers fair and equitable, but shall not in any case fix the rent at a sum less than the amount of the land-revenue of the land and the rates and cesses chargeable thereon.

Time for enhancement or reduction to take effect.

26. (*1*) Unless the Court decreeing an enhancement of rent otherwise directs, the enhancement shall take effect from the commencement of the agricultural year next following the date of the decree.

(*2*) A Court decreeing a reduction of rent shall specify in the decree the date on and from which the reduction is to take effect.

Adjustment of Rents expressed in terms of the Land-revenue.

Adjustment of rents expressed in terms of the land-revenue.

27. (*1*) Where the rent of a tenancy is the whole or a share of the land-revenue thereof, with or without an addition in money, kind or service, and the land-revenue of the holding in which the tenancy is situate is altered, a Revenue-officer having authority under section 56 of the Punjab Land-revenue Act, 1887, to determine the land-revenue payable in respect of the several holdings comprised in the estate in which the tenancy is situate shall determine also the amount of the land-revenue of the tenancy, or the proportionate share thereof, payable by the tenant as rent. XVII of 1

(*2*) Where an addition referred to in sub-section (*1*) is a percentage fixed with reference to the land-revenue of the tenancy, or the whole or a share of the rates and cesses chargeable thereon, or both, the Revenue-officer shall in like manner from time to time alter the amount of the addition in proportion to any alteration of such land-revenue or rates and cesses.

(*3*) The sum or sums determined under the foregoing sub-sections, together with any addition previously payable other than the additions referred to in sub-section (*2*), shall be the rent payable in respect of the tenancy until there is again an alteration of the land-revenue thereof or of the rates and cesses chargeable thereon or until the rent is enhanced by a suit under this Act.

(*4*) An alteration of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

Alteration of Rent on Alteration of Area.

Alteration of rent on alteration of area.

28. (*1*) Every tenant shall—

(*a*) be liable to pay additional rent for all land proved to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to his tenancy of land which, having previously belonged to the tenancy, was lost by diluvion or otherwise without any reduction of the rent being made; and

(*b*) be entitled to an abatement of rent in respect of any deficiency proved to exist in the area of his tenancy as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenancy by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(*2*) In determining the area for which rent has been previously paid, the Court shall have regard to the following, among other matters, namely :—

(*a*) the origin and conditions of the tenant's occupancy, for instance, whether the rent was a rent in gross for the entire tenancy;

(*b*) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord; and

(*c*) the length of time during which there has been no dispute as to rent or area.

(*3*) In adding to or abating rent under this section, the Court shall add to or abate the rent to such an amount as it deems to be fair and equitable, and shall specify in its decree the date on and from which the addition or abatement is to take effect.

to the Revenue-officer within fifteen days from receipt of the notice he will be ejected from the land.

(2) If the amount is not so paid, the Revenue-officer shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant unless good cause is shown to the contrary.

Ejectment of tenant from year to year by notice.

45. (1) On receiving the application of the landlord in any such case as is mentioned in clause (b) of section 42, the Revenue-officer shall, if the application is in order and not open to objection on the face of it, cause a notice of ejectment to be served on the tenant.

(2) A notice under sub-section (1) shall not be served after the fifteenth day of November in any year.

(3) The notice shall specify the name of the landlord on whose application it is issued, and describe the land to which it relates, and shall inform the tenant that he must vacate the land before the first day of May next following, or that, if he intends to contest his liability to ejectment, he must institute a suit for that purpose in a Revenue Court within two months from the date of the service of the notice.

(4) The notice shall also inform the tenant that if he does not intend to contest his liability to be ejected and he has any claim for compensation on ejectment he should, within two months from the date of the service of the notice, prefer his claim to the Revenue-officer having authority under the next following sub-section to order his ejectment in the circumstances described in that sub-section.

(5) If within two months from the date of the service of the notice the tenant does not institute a suit to contest his liability to be ejected, a Revenue-officer, on the application of the landlord, shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant:

Provided that the Revenue-officer shall not make the order until he is satisfied that the notice was duly served on the tenant.

(6) If within those two months the tenant institutes a suit to contest his liability to be ejected and fails in the suit, the Court by which the suit is determined shall by its decree direct the ejectment of the tenant.

Power to make rules.

46. The Financial Commissioner may make rules prescribing—

(a) the form and language of applications and notices under the two last foregoing sections; and

(b) the manner in which those applications and notices are to be signed and attested.

GENERAL PROVISIONS RESPECTING EJECTMENT.

Time for ejectment.

47. A decree or order for the ejectment of a tenant shall not be executed at any other time than between the first day of May and the fifteenth day of June (both days inclusive), unless the Court making the decree or, where the order is made under section 44, the officer making the order otherwise directs.

Relief against forfeiture.

48. (1) If in a suit for the ejectment of a tenant on either of the grounds mentioned in clauses (a) and (b) of section 39 or of section 40 it appears to the Court that the injury caused by the act or omission on which the suit is based is capable of being remedied, or that an award of compensation will be sufficient satisfaction to the landlord therefor, the Court may, instead of making a decree for the ejectment of the tenant, order him to remedy the injury within a period to be fixed in the order, or order him to pay into Court, within such a period, such compensation as the Court thinks fit.

(2) The Court may from time to time, for special reasons, extend a period fixed by it under sub-section (1).

(3) If within the period, or extended period, as the case may be, fixed by the Court under this section, the injury is remedied or the compensation is paid, a decree for the ejectment of the tenant shall not be made.

Rights of ejected tenants in respect of crops and land prepared for sowing.

49. (1) Where at the time of the proposed ejectment of a tenant from any land his uncut or ungathered crops are standing on any part thereof, he shall not be ejected from that part until the crops have ripened and he has been allowed a reasonable time to harvest them.

(2) The Court or Revenue-officer decreeing or ordering the ejectment of the tenant may, on the application of the landlord, determine any dispute arising in consequence of the provisions of sub-section (1) between the landlord and the tenant or between the landlord and any person entitled to harvest the crops of the tenant, and may in its or his discretion—

(a) direct that the tenant pay for the longer occupation of the land secured to him under sub-section (1) such rent as may be fair and equitable, or

(b) determine the value of the tenant's uncut and ungathered crops, and, on payment thereof by the landlord to the Court or Revenue-officer, forthwith eject the tenant.

(3) When a tenant for whose ejectment proceedings have been taken has, conformably with local usage, prepared for sowing any land comprised in his tenancy, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord before ejectment a fair equivalent in money for the labour and capital expended by him in so preparing the land, and the Court or Revenue-officer before which or whom the proceedings are pending shall, on the application of the tenant, determine the sum payable to the tenant under this sub-section and stay his ejectment until that sum has been paid to him.

RELIEF FOR WRONGFUL DISPOSSESSION.

Relief for wrongful dispossession or ejectment.

50. In either of the following cases, namely:—

(a) if a tenant has been dispossessed without his consent of his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of an order under section 44 or section 45,

(b) if a tenant who, not having instituted a suit under section 45, has been ejected

The Punjab Tenancy Act, 1887.

(Chapter IV.—Relinquishment, Abandonment and Ejectment.—Sections 51-52. Chapter V.—Alienation of, and Succession to, Right of Occupancy.—Sections 53-58.)

from his tenancy or any part thereof in pursuance of an order under that section denies his liability to be ejected,

the tenant may, within one year from the date of his dispossession or ejectment, institute a suit for recovery of possession or occupancy, or for compensation, or for both.

Bar of relief by suit under section 9, Act I, 1877.

51. Possession of a tenancy or of any land comprised in a tenancy shall not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant dispossessed thereof.

Power to vary Dates prescribed by this Chapter.

Power for Local Government to fix dates for certain purposes.

52. (*1*) The Local Government may, for all or any of the territories under its administration, by notification fix for the purposes of sections 36, 45 and 47, or of any of those sections, any other dates instead of those specified therein.

(*2*) A notification under this section shall not take effect till after the expiration of six months from the date of the publication thereof.

CHAPTER V.

ALIENATION OF, AND SUCCESSION TO, RIGHT OF OCCUPANCY.

Alienation.

Private transfer of right of occupancy under section 5 by tenant.

53. (*1*) A tenant having a right of occupancy under section 5 may transfer that right by sale, gift or mortgage, subject to the conditions mentioned in this section.

(*2*) If he intends to transfer the right by sale, gift, mortgage by conditional sale or usufructuary mortgage, he shall cause notice of his intention to be served on his landlord through a Revenue-officer, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is served.

(*3*) Within that period of one month the landlord may claim to purchase the right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(*4*) When the application to the Revenue-officer is to fix the value of a right of occupancy which is already mortgaged, he shall fix the value of the right as if it were not mortgaged.

(*5*) The landlord shall be deemed to have purchased the right if he pays the value to the Revenue-officer within such time as that officer appoints.

(*6*) On the value being so paid, the right of occupancy shall be extinct, and the Revenue-officer shall, on the application of the landlord, put the landlord in possession of the tenancy.

(*7*) If the right of occupancy was already mortgaged, the tenancy shall pass to the landlord unincumbered by the mortgage, but the mortgage-debt shall be a charge on the purchase-money.

(*8*) If there is no such charge as aforesaid, the Revenue-officer shall, subject to any directions which he may receive from any Court, pay the purchase-money to the tenant.

(*9*) If there is such a charge, the Revenue-officer shall, subject as aforesaid, either apply in discharge of the mortgage-debt so much of the purchase-money as is required for that purpose and pay the balance, if any, to the tenant, or retain the purchase-money pending the decision of a Civil Court as to the person or persons entitled thereto.

(*10*) Where there are several landlords of a tenancy, any one of them may be deemed to be the landlord for the purposes of this section.

(*11*) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under the two last foregoing sub-sections, but nothing in this sub-section shall prevent any person entitled to receive the whole or any part of the purchase-money from recovering it from a person to whom it has been paid by a Revenue-officer.

Procedure on foreclosure of mortgage of right of occupancy under section 5.

54. Where a mortgagee of a right of occupancy under section 5 proposes to foreclose his mortgage, or otherwise enforce his lien on the land subject to the right, the provisions of the last foregoing section shall, so far as they can be made applicable, apply as if the mortgagee were the tenant.

Sale of right of occupancy under section 5 in execution of decree.

55. (*1*) A right of occupancy under section 5 may be sold in execution of a decree or order of a Court;

(*2*) But notice of an intended sale of any such right shall be given by the Court to the landlord, and, if at any time before the close of the day on which the sale takes place the landlord pays to the Court or to the officer conducting the sale a deposit of twenty-five per centum on the highest bid made at the sale, he shall be declared to be the purchaser instead of the person who made that bid.

Transfer of right of occupancy under any other section than section 5.

56. A right of occupancy under any other section than section 5 shall not be attached or sold in execution of a decree or order of any Court or, without the previous consent in writing of the landlord, be transferred by private contract.

Rights and liabilities of transferee of right of occupancy.

57. When a right of occupancy has been transferred by sale, gift or usufructuary mortgage to a person other than the landlord, that person shall, in respect of the land in which the right subsists, have the same rights, and be subject to the same liabilities, as the tenant to whom before the transfer the right belonged had and was subject to.

Subletting.

58. (*1*) A tenant having a right of occupancy in land may, subject to the provisions of this Act and to the conditions of any written contract between him and his landlord, sublet the land or any part thereof for any term not exceeding seven years.

(*2*) A person to whom land is sublet by a tenant having a right of occupancy therein shall, in respect of that land, and so far as regards the landlord, be, jointly with the tenant, subject to all the liabilities of the tenant under this Act.

The Punjab Tenancy Act, 1887.

(Chapter V.—Alienation of, and Succession to, Right of Occupancy.—Sections 59-60. Chapter VI.—Improvements and Compensation.—Sections 61-67.).

Succession.

Succession to right of occupancy.

59. (*1*) When a tenant having a right of occupancy in any land dies, the right shall devolve—

(*a*) on his male lineal descendants, if any, in the male line of descent, and,

(*b*) failing such descendants, on his widow, if any, until she dies or re-marries or abandons the land or is under the provisions of this Act ejected therefrom, and,

(*c*) failing such descendants and widow, or, if the deceased tenant left a widow, then when her interest terminates under clause (*b*) of this sub-section, on his male collateral relatives in the male line of descent from the common ancestor of the deceased tenant and those relatives:

Provided, with respect to clause (*c*) of this sub-section, that the common ancestor occupied the land.

(*2*) As among descendants and collateral relatives claiming under sub-section (*1*), the right shall, subject to the provisions of that sub-section, devolve as if it were land left by the deceased in the village in which the land subject to the right is situate.

(*3*) When the widow of a deceased tenant succeeds to a right of occupancy, she shall not transfer the right by sale, gift or mortgage, or by sub-lease for a term exceeding one year.

(*4*) If the deceased tenant has left no such persons as are mentioned in sub-section (*1*) on whom his right of occupancy may devolve under that sub-section, the right shall be extinguished.

Irregular Transfers.

Irregular transfer of right of occupancy.

60. Any transfer made of a right of occupancy in contravention of the foregoing provisions of this Chapter shall be voidable at the instance of the landlord.

CHAPTER VI.

IMPROVEMENTS AND COMPENSATION.

Improvements by Landlords.

Improvements by landlords on tenancies of occupancy-tenants.

61. (*1*) Without the previous permission of the Collector a landlord shall not make an improvement on the tenancy of a tenant having a right of occupancy.

(*2*) If a landlord desires to make such an improvement he may apply to the Collector for permission to make it, and the Collector shall, before making an order on the application, hear the objection, if any, of the tenant.

(*3*) In making an order on an application under sub-section (*2*) the Collector shall be guided by such rules, if any, as the Local Government may, with the previous sanction of the Governor General in Council, make in this behalf.

Enhancement of rent in consideration of an improvement made by a landlord on the tenancy of an occupancy-tenant.

62. (*1*) When a landlord has, with the permission mentioned in the last foregoing section, made an improvement on the tenancy of a tenant having a right of occupancy, he may apply to the Collector for an enhancement of the rent of the tenant.

(*2*) If the tenant is a tenant to whom section 20 applies, the Collector shall enhance his rent to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for land of a similar description and with similar advantages.

(*3*) If the tenant is a tenant to whom section 22 applies, the Collector shall enhance his rent to such amount as the tenant would be liable to pay under that section if the land-revenue were re-assessed.

(*4*) When the improvement ceases to exist, the Collector may, on the application of the tenant, reduce the tenant's rent,—

(*a*) in the case of a tenant to whom sub-section (*2*) applies, to the share or rates, or with reference to the rent in gross, as the case may be, paid by tenants, having a similar right of occupancy, for land of a similar description and with similar advantages, and

(*b*) in the case of a tenant to whom sub-section (*3*) applies, to such an amount as the tenant would be liable to pay if the land-revenue were re-assessed.

(*5*) Sections 25 and 26 shall be construed as applying to an application under this section, and a suit shall not lie in any Court for any purpose for which an application might be made under this section.

Improvements by Tenants.

Title of occupancy-tenant to make improvements.

63. A tenant having a right of occupancy is entitled to make improvements on his tenancy.

Title of tenants not having right of occupancy to make improvements.

64. (*1*) A tenant not having a right of occupancy may make improvements on his tenancy with the assent of his landlord.

(*2*) If at any time the question arises whether or not the landlord assented to the making of an improvement by a tenant not having a right of occupancy, the assent may be inferred from circumstances.

Improvements made before commencement of this Act.

65. Improvements made by a tenant before the commencement of this Act shall be deemed to have been made in accordance with this Act, unless in the case of a tenant not having a right of occupancy it is shown that the improvement was made in contravention of a written agreement between him and his landlord.

Improvements begun in anticipation of ejectment.

66. A tenant ejected in execution of a decree, or in pursuance of a notice of ejectment, shall not be entitled to compensation for any improvement begun by him after the institution of the suit, or service of the notice, which resulted in his ejectment.

Tender of lease for twenty years to tenant to be a bar to right to compensation.

67. If a landlord tenders to a tenant a lease of his tenancy for a term of not less than twenty years from the date of the tender at the rent then paid by the tenant, or at such other rent as may be agreed on, the tender, if accepted by the tenant, shall bar any claim by him to compensation in respect of improvements previously made on the tenancy.

The Punjab Tenancy Act, 1887.
(Chapter VI.—Improvements and Compensation.—Sections 68-74. Chapter VII.—Jurisdiction and Procedure.—Section 75.)

Liability to pay compensation for improvements to tenant on ejectment or on enhancement of his rent.

68. Subject to the foregoing provisions of this Chapter, a tenant who has made an improvement on his tenancy in accordance with this Act shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for the improvement.

Compensation for Disturbance of Clearing Tenants.

Compensation for disturbance of clearing tenants.

69. (*1*) A tenant who has cleared and brought under cultivation waste-land in which he has not a right of occupancy shall, if ejected from that land, be entitled to receive from the landlord as compensation for disturbance, in addition to any compensation for improvements, a sum to be determined by a Revenue Court or Revenue-officer in accordance with the merits of the case, but not exceeding five years' rent of the land :

Provided that a tenant who is a joint owner of land to which this section applies shall not be entitled to compensation for disturbance on ejectment from the land or any part thereof.

(*2*) If rent has been paid for the land by division or appraisement of the produce, or by rates fixed with reference to the nature of the crops grown, or if no rent, or no rent other than the land-revenue of the land and the rates and cesses chargeable thereon, has been paid therefor, the compensation may be computed as if double the amount of the land-revenue of the land were the annual rent thereof.

Procedure in determining Compensation.

Determination of compensation by Revenue Courts.

70. (*1*) In every suit by a tenant to contest his liability to ejectment or by a landlord to eject a tenant or to enhance his rent, the Court shall direct the tenant to file a statement of his claim, if any, to compensation for improvements or for disturbance and of the grounds thereof.

(*2*) If the Court decrees the ejectment of the tenant or the enhancement of his rent, it shall determine the amount of compensation, if any, due to the tenant, and shall stay execution of the decree until the landlord pays into Court that amount less any arrears of rent or costs proved to the satisfaction of the Court to be due to him from the tenant.

Determination of compensation by Revenue-officers.

71. In either of the following cases, namely :—

(*a*) when a notice has been served on a tenant under section 44,

(*b*) when a notice of ejectment has been served on a tenant under section 45 and the tenant has not instituted a suit to contest his liability to be ejected,

the tenant may apply to the Revenue-officer having authority to order his ejectment under section 44 or section 45, as the case may be, to determine the amount of compensation due to him for improvements or for disturbance, or for both, and the Revenue-officer shall determine the amount, if any, accordingly and stay the ejectment of the tenant until the landlord pays to the Revenue-officer the amount so determined less any arrears of rent or costs proved to the satisfaction of the Revenue-officer to be due to the landlord from the tenant.

Matters to be regarded in assessment of compensation for improvements.

72. In estimating the compensation to be awarded under this Chapter to a tenant for an improvement, the Court or Revenue-officer shall have regard to—

(*a*) the amount by which the value or the produce of the tenancy, or the value of that produce, is increased by the improvement ;

(*b*) the condition of the improvement and the probable duration of its effects ;

(*c*) the labour and capital required for the making of such an improvement ;

(*d*) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement ; and

(*e*) in the case of a reclamation, or of the conversion of unirrigated into irrigated land, the length of time during which the tenant has had the benefit of the improvement.

Form of compensation.

73. (*1*) The compensation shall be made by payment in money, unless the parties agree that it be made in whole or in part by the grant of a beneficial lease of land or in some other way.

(*2*) If the parties so agree, the Court or Revenue-officer shall make an order accordingly.

Relief in case of Ejectment before Determination of Compensation.

Relief in case of ejectment before determination of compensation.

74. (*1*) If from any cause the amount of compensation payable to a tenant—

(*a*) under this Chapter for improvements or disturbance ; or

(*b*) under section 49 for the value of uncut or ungathered crops or the preparation of land for sowing,

has not been determined before the tenant is ejected, the ejectment shall not be invalidated by reason of the omission, but the Court or Revenue-officer which decreed or who ordered the ejectment may, on application made by the tenant within one year from the date of the ejectment, correct the omission by making in favour of the tenant an order for the payment to him by the landlord of such compensation as the Court or officer may determine the tenant to be entitled to.

(*2*) An order made under sub-section (*1*) may be executed in the same manner as a decree for money may be executed by a Revenue Court.

CHAPTER VII.

JURISDICTION AND PROCEDURE.

Jurisdiction.

Revenue-officers.

75. (*1*) There shall be the same classes of Revenue-officers under this Act as under the Punjab Land-revenue Act, 1887, and, in the absence of any order of the Local Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under that Act shall be a Revenue-officer of the same class having jurisdiction within the same local limits under this Act.

The Punjab Tenancy Act, 1887.
(Chapter VII.—Jurisdiction and Procedure.—Sections 76-77.)

(2) The expressions "Collector" and "Financial Commissioner" have the same meaning in this Act as in the Punjab Land-revenue Act, 1887.

II of 1887.

76. (1) The following applications and proceedings shall be disposed of by Revenue-officers as such, and no Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had :—

Applications and proceedings cognizable by Revenue-officers.

FIRST GROUP.

(a) proceedings under section 27 for the adjustment of rents expressed in terms of the land-revenue;

(b) proceedings relating to the remission and suspension of rent under section 30;

(c) applications under section 43 for the ejectment of a tenant against whom a decree for an arrear of rent in respect of his tenancy has been passed and remains unsatisfied:

(d) applications under section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected but has claimed compensation under section 71;

(e) applications under section 53 or section 54 for the fixing of the value of a right of occupancy;

(f) applications under section 53 or section 54 by landlords for possession of land the right of occupancy in which has become extinct;

(g) proceedings under Chapter VI with respect to the award of compensation for improvements or disturbance;

SECOND GROUP.

(h) applications under section 17 with respect to the division or appraisement of produce;

(i) applications under section 45, sub-section (5), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected and has not claimed compensation under section 71;

(j) applications for the determination—

(i) under section 49 of the rent payable for land occupied by crops uncut or ungathered at the time of an order being made for the ejectment of a tenant, or

(ii) under section 49 or section 74 of the value of such crops or of the sum payable to the tenant for labour and capital expended by him in preparing land for sowing;

THIRD GROUP.

(k) applications under section 31 by tenants to deposit rent;

(l) applications under section 36 for service of notice of relinquishment;

(m) applications under section 43 for service of notice of ejectment;

(n) applications under section 53 or section 54 for service of notice of intended transfer or of intended foreclosure or other enforcement of lien.

(2) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,—

(a) a Collector or an Assistant Collector of the first grade may dispose of any of the applications and proceedings mentioned in sub-section (1);

(b) an Assistant Collector of the second grade, not being a Naib-tahsildár, may dispose of any of the applications mentioned in the second and third groups of that sub-section; and

(c) a Naib-tahsildár, when invested with the powers of an Assistant Collector of the second grade, may dispose of any of the applications mentioned in the third group of that sub-section.

77. (1) When a Revenue-officer is exercising jurisdiction with respect to any such suit as is described in sub-section (3), or with respect to an appeal or other proceeding arising out of any such suit, he shall be called a Revenue Court.

Revenue Courts and suits cognizable by them.

(2) There shall be the same classes of Revenue Courts as of Revenue-officers under this Act, and, in the absence of any order of the Local Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under this Act shall be a Revenue Court of the same class having jurisdiction within the same local limits.

(3) The following suits shall be instituted in and heard and determined by Revenue Courts, and no other Court shall take cognizance of any dispute or matter with respect to which any such suit might be instituted:—

FIRST GROUP.

(a) suits between landlord and tenant for enhancement or reduction of rent under section 24;

(b) suits between landlord and tenant for addition to or abatement of rent under section 28 or for commutation of rent;

(c) suits under section 34 for the determination of rent or other sum on the expiration of the term of an assessment of land-revenue;

SECOND GROUP.

(d) suits by a tenant to establish a claim to a right of occupancy, or by a landlord to prove that a tenant has not such a right;

(e) suits by a landlord to eject a tenant;

(f) suits by a tenant under section 45 to contest liability to ejectment, when notice of ejectment has been served;

(g) suits by a tenant under section 50 for recovery of possession or occupancy, or for compensation, or for both;

(h) suits by a landlord to set aside a transfer made of a right of occupancy, or to dispossess a person to whom such a transfer has been made, or for both purposes;

(i) any other suit between landlord and tenant arising out of the lease or conditions on which a tenancy is held;

The Punjab Tenancy Act, 1887.
(Chapter VII.—Jurisdiction and Procedure.—Sections 78-82.)

(*j*) suits for sums payable on account of village-cesses or village-expenses;

(*k*) suits by a co-sharer in an estate or holding for a share of the profits thereof or for a settlement of accounts;

(*l*) suits for the recovery of over-payments of rent or land-revenue or of any other demand for which a suit lies in a Revenue Court under this sub-section;

(*m*) suits relating to the emoluments of kánúngos, zaildárs, inámdárs or village-officers;

THIRD GROUP.

(*n*) suits by a landlord for arrears of rent or the money-equivalent of rent, or for sums recoverable under section 14;

(*o*) suits by a landowner to recover moneys claimed as due for the enjoyment of rights in or over land or in water, including rights of irrigation, rights over fisheries, rights of pasturage and forest-rights;

(*p*) suits for sums payable on account of land-revenue or of any other demand recoverable as an arrear of land-revenue under any enactment for the time being in force, and by a superior landowner for other sums due to him as such.

(*4*) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,—

(*a*) a Collector may hear and determine any of the suits mentioned in sub-section (*3*);

(*b*) an Assistant Collector of the first grade may hear and determine any of the suits mentioned in the second and third groups of that sub-section, and, if he has by name been specially empowered in this behalf by the Local Government, any of the suits mentioned in the first group; and

(*c*) an Assistant Collector of the second grade may hear and determine any of the suits mentioned in the third group.

Administrative Control.

Superintendence and control of Revenue-officers and Revenue Courts.

78. (*1*) The general superintendence and control over all other Revenue-officers and Revenue Courts shall be vested in, and all such officers and Courts shall be subordinate to, the Financial Commissioner.

(*2*) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers and Revenue Courts in his division.

(*3*) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue-officers and Revenue Courts in his district.

Power to distribute business and withdraw and transfer cases.

79. (*1*) The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue-officer or Revenue Court under his control.

(*2*) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer or Revenue Court under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer or Revenue Court under his control.

(*3*) An order under sub-section (*1*) or sub-section (*2*) shall not empower any Revenue-officer or Revenue Court to exercise any powers or deal with any business which he or it would not be competent to exercise or deal with within the local limits of his or its own jurisdiction.

Appeal, Review and Revision.

Appeals.

80. Subject to the provisions of this Act and the rules thereunder, an appeal shall lie from an original or appellate order or decree made under this Act by a Revenue-officer or Revenue Court, as follows, namely:—

(*a*) to the Collector when the order or decree is made by an Assistant Collector of either grade;

(*b*) to the Commissioner when the order or decree is made by a Collector;

(*c*) to the Financial Commissioner when the order or decree is made by a Commissioner:

Provided that—

(i) an appeal from an order or decree made by an Assistant Collector of the first grade specially empowered by name in that behalf by the Local Government in a suit mentioned in the first group of sub-section (*3*) of section 77 shall lie to the Commissioner and not to the Collector;

(ii) when an original order or decree is confirmed on first appeal, a further appeal shall not lie;

(iii) when any such order or decree is modified or reversed on appeal by the Collector, the order or decree made by the Commissioner on further appeal, if any, to him shall be final.

Limitation for appeals.

81. The period of limitation for an appeal under the last foregoing section shall run from the date of the order or decree appealed against, and shall be as follows, that is to say:—

(*a*) when the appeal lies to the Collector—thirty days;

(*b*) when the appeal lies to the Commissioner—sixty days;

(*c*) when the appeal lies to the Financial Commissioner—ninety days.

Review by Revenue-officers.

82. (*1*) A Revenue-officer, as such, may either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm any order passed by himself or by any of his predecessors in office:

Provided as follows:—

(*a*) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue-officer of a class below that of Collector proposes to review any order whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject;

The Punjab Tenancy Act, 1887.
(Chapter VII.—Jurisdiction and Procedure.—Sections 83-88.)

(*b*) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period ;

(*c*) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;

(*d*) an order against which an appeal has been preferred shall not be reviewed.

(*2*) For the purposes of this section the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

(*3*) An appeal shall not lie from an order refusing to review, or confirming on review, a previous order.

Computation of periods limited for appeals and applications for review.

83. In the computation of the period for an appeal from, or an application for the review of, an order under this Act, the limitation therefor shall be governed by the Indian Limitation Act, 1877. XV of 1877.

Power to call for, examine and revise proceedings of Revenue-officers and Revenue Courts.

84. (*1*) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court subordinate to him.

(*2*) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court under his control.

(*3*) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or the order or decree made should be modified or reversed, he shall submit the record with his opinion on the case for the orders of the Financial Commissioner.

(*4*) If, after examining a record called for by himself under sub-section (*1*) or submitted to him under sub-section (*3*), the Financial Commissioner is of opinion that it is inexpedient to interfere with the proceedings or the order or decree, he shall pass an order accordingly.

(*5*) If, after examining the record, the Financial Commissioner is of opinion that it is expedient to interfere with the proceedings or the order or decree on any ground on which the Chief Court in the exercise of its revisional jurisdiction may under the law for the time being in force interfere with the proceedings or an order or decree of a Civil Court, he shall fix a day for hearing the case, and may, on that or any subsequent day to which he may adjourn the hearing or which he may appoint in this behalf, pass such order as he thinks fit in the case.

(*6*) Except when the Financial Commissioner fixes under sub-section (*5*) a day for hearing the case, no party has any right to be heard before the Financial Commissioner when exercising his powers under this section.

Procedure.

Procedure of Revenue-officers.

85. (*1*) The Local Government may make rules consistent with this Act for regulating the procedure of Revenue-officers under this Act in cases in which a procedure is not prescribed by this Act.

(*2*) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(*3*) The rules may also provide for the mode of executing orders as to costs, and may adapt to proceedings under this Act all or any of the provisions of the Punjab Land-revenue Act, 1887, with respect to arbitration. XVII

(*4*) Subject to the rules under this section, a Revenue-officer may refer any case which he is empowered to dispose of under this Act to another Revenue-officer for investigation and report, and may decide the case upon the report.

Persons by whom appearances may be made before Revenue-officers as such and not as Revenue Courts.

86. (*1*) Appearances before a Revenue-officer as such, and applications to and acts to be done before him, under this Act may be made or done—

(*a*) by the parties themselves, or

(*b*) by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

(*2*) For the purposes of sub-section (*1*), recognized agents shall be such persons as the Local Government may by notification declare in this behalf.

(*3*) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue-officer under this Act, unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

Costs.

87. (*1*) A Revenue-officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit;

(*2*) But if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

Procedure of Revenue Courts.

88. (*1*) The Local Government may, with the previous sanction of the Governor General in Council, make rules consistent with this Act for regulating the procedure of Revenue Courts in matters under this Act for which a procedure is not prescribed thereby, and may by any such rule direct that any provisions of the Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before those Courts. XIV

(*2*) Until rules are made under sub-section (*1*), and subject to those rules when made and to the provisions of this Act,—

(*a*) the Code of Civil Procedure shall, so far as it is applicable, apply to all proceedings in Revenue Courts whether before or after decree; and

(*b*) the Financial Commissioner shall, in respect of those proceedings, be deemed to be the High Court within the meaning of that Code, and shall, subject to the provisions of this Act, exercise, as regards the Courts under his control, all the powers of a High Court under the Code.

Power of Revenue-officer or Revenue Court to summon persons.

89. (*1*) A Revenue-officer or Revenue Court may summon any person whose attendance he or it considers necessary for the purpose of any application, suit or other business before him or it as a Revenue-officer or Revenue Court.

(*2*) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or a legal practitioner.

(*3*) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue-officer or Revenue Court may require.

Mode of service of summons.

90. (*1*) A summons issued by a Revenue-officer or Revenue Court shall, if practicable, be served (*a*) personally on the person to whom it is addressed, or failing him on (*b*) his recognised agent or (*c*) an adult male member of his family who is residing with him.

(*2*) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue-officer is employed or the Revenue Court is held, and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

(*3*) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer or Revenue Court so directs, be served by delivery of a copy thereof to such of those persons as the officer or Court nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(*4*) A summons may, if the Revenue-officer or Revenue Court so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Part III of the Indian Post Office Act, 1866. [XIV] of 1866.

(*5*) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the officer or Court may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

Mode of service of notice, order or proclamation or copy thereof.

91. A notice, order or proclamation, or copy of any such document, issued by a Revenue-officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

Mode of making proclamation.

92. When a proclamation relating to any land is issued by a Revenue-officer or Revenue Court, it shall, in addition to any other mode of publication which may be prescribed by any enactment for the time being in force, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

Joinder of tenants as parties to proceedings relating to rent.

93. (*1*) Any number of tenants cultivating in the same estate may, in the discretion of the Revenue-officer or Revenue Court and subject to any rules which the Local Government may make in this behalf, be made parties to any proceeding under Chapter III;

(*2*) But a decree or order shall not be made in any such proceeding unless the Revenue-officer or Revenue Court is satisfied that all the parties thereto have had an opportunity of appearing and being heard.

(*3*) A decree or order made in any such proceeding shall specify the extent to which each of the tenants is affected thereby.

Exception of suits under this Act from operation of certain enactments.

94. Nothing in section 424 of the Code of Civil Procedure, or in section 36 of the Punjab Municipal Act, 1884, shall be construed to apply to a suit of a class mentioned in section 77 of this Act. XIV of 1882. XIII of 1884.

Payment into Court of money admitted to be due to third person.

95. (*1*) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person, the Court shall, except for special reasons to be recorded by it, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

(*2*) Where such a payment is made the Court shall forthwith cause notice of the payment to be served on the third person.

(*3*) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment of the money, it shall be paid to the plaintiff on his application to the Court therefor.

(*4*) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (*3*).

(*5*) When a defendant pays money into Court under this section, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

Execution of decrees for arrears of rent.

96. A Court passing a decree for an arrear of rent may, on the oral application of the decreeholder, order execution thereof against the moveable property of the tenant, and against any uncut or ungathered crops on the tenancy in respect of which the arrear is decreed.

The Punjab Tenancy Act, 1887.
(Chapter VII.—Jurisdiction and Procedure.—Sections 97-105.)

Prohibition of imprisonment of tenants in execution of decrees for arrears of rent.

97. A tenant shall not during the continuance of his occupancy be liable to imprisonment on the application of his landlord in execution of a decree for an arrear of rent.

Power to refer party to Civil Court.

98. (*1*) If, in any proceeding pending before a Revenue Court exercising original, appellate or revisional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Court, if any, to the control of which it is immediately subject, require, by order in writing, any party to the proceeding to institute, within such time as it may fix in this behalf, a suit in the Civil Court for the purpose of obtaining a decision on the question, and, if he fails to comply with the requisition, may decide the question as it thinks fit.

(*2*) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceeding pending before it in accordance with the final decision of the Civil Court of first instance or appeal, as the case may be.

Power to refer to Chief Court questions as to jurisdiction.

99. (*1*) If the presiding officer of a Civil or Revenue Court in which a suit has been instituted doubts whether he is precluded from taking cognizance of the suit, he may refer the matter through the Divisional Judge or Commissioner, or, if he is a Divisional Judge or Commissioner, directly to the Chief Court.

(*2*) On any such reference being made, the Chief Court may order the presiding officer either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

(*3*) The order of the Chief Court on any such reference shall be conclusive as against persons who are not parties to the suit as well as against persons who are parties thereto.

Power of Chief Court to validate proceedings had under mistake as to jurisdiction.

100. (*1*) In either of the following cases, namely :—

(*a*) if it appears to a Civil Court that a Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court, or

(*b*) if it appears to a Revenue Court that a Court under its control has determined a suit which should have been heard by a Civil Court,

the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the Chief Court.

(*2*) If on perusal of the record it appears to the Chief Court that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the Chief Court may order that the decree be registered in the Court which had jurisdiction.

(*3*) If it appears to the Chief Court, otherwise than on submission of a record under sub-section (*1*), that a Civil Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court, the Chief Court may pass any order which it might have passed if the record had been submitted to it under that sub-section.

(*4*) With respect to any proceeding subsequent to decree, the Chief Court may make such order for its registration in a Revenue Court or Civil Court as in the circumstances appears to be just and proper.

(*5*) An order of the Chief Court under this section shall be conclusive as against persons who were not parties to the suit or proceeding as well as against persons who were parties thereto, and the decree or proceeding to which the order relates shall have effect as if it had been made or had by the Court in which the order has required it to be registered.

(*6*) The provisions of this section shall apply to any suit instituted on or after the first day of November, 1884, and to proceedings arising out of any such suit.

Miscellaneous.

Place of sitting.

101. (*1*) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed.

(*2*) Any other Revenue-officer or Revenue Court may only exercise his or its powers under this Act within the local limits of his or its jurisdiction.

Holidays.

102. (*1*) The Financial Commissioner, with the approval of the Local Government, shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers and Revenue Courts.

(*2*) A proceeding had before a Revenue-officer or Revenue Court on a day specified in the list as a day to be observed by the officer or Court as a holiday shall not be invalid by reason only of its having been had on that day.

Discharge of duties of Collector dying or being disabled.

103. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Collector under this Act.

Retention of powers by Revenue-officers on transfer.

104. When a Revenue-officer of any class who, either as such or as a Revenue Court, has under the foregoing provisions of this Act any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer or Revenue Court of the same or a higher class, he shall continue to exercise those powers in that other local area, unless the Local Government otherwise directs or has otherwise directed.

Conferment of powers of Revenue officer or Revenue Court.

105. (*1*) The Local Government may by notification confer on any person—

(*a*) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act, or

The Punjab Tenancy Act, 1887.

(Chapter VII.—Jurisdiction and Procedure.—Sections 106-108. Chapter VIII. —Effect of this Act on Records-of-rights and Agreements.—Sections 109-110.)

(*b*) all or any of the powers with which an Assistant Collector of either grade is, or may be, invested thereunder,

and may by notification withdraw any powers so conferred.

(*2*) A person on whom powers are conferred under sub-section (*1*) shall exercise those powers within such local limits and in such classes of cases as the Local Government may direct, and, except as otherwise directed by the Local Government, shall for all purposes connected with the exercise thereof be deemed a Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be.

(*3*) Before conferring powers on the Judge of a Civil Court under sub-section (*1*), the Local Government shall consult the Chief Court.

(*4*) If any of the powers of a Collector under section 78, section 79, section 80 or section 82 are conferred on an Assistant Collector, they shall, unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

Power for Financial Commissioner to make rules.

106. (*1*) The Financial Commissioner may, in addition to the other rules which may be made by him under this Act, make rules, consistent with this Act and any other enactment for the time being in force,—

(*a*) determining, notwithstanding anything in any record-of-rights, the number and amount of the instalments and the times by and at which rent is to be paid;

(*b*) for the guidance of Revenue-officers in determining, for the purposes of this Act, the amount of the land-revenue of any land;

(*c*) prescribing, for all or any of the territories to which this Act extends, the periods during which, in proceedings held under this Act, a Revenue-officer or Revenue Court is not, except for reasons of urgency to be recorded, to issue any process of arrest against a tenant or against a landowner who cultivates his own land;

(*d*) regulating the procedure in cases where persons are entitled to inspect records of Revenue-offices or Revenue Courts, or to obtain copies of the same, and prescribing the fees payable for searches and copies;

(*e*) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in Revenue-offices or Revenue Courts or submitted to any authority;

(*f*) declaring what shall be the language of any of those offices and Courts, and determining in what cases persons practising in those offices and Courts shall be permitted to address the presiding officers thereof in English; and

(*g*) generally for the guidance of Revenue-officers and other persons in matters connected with the enforcement of this Act.

(*2*) Until rules are made under clause (*a*) of sub-section (*1*), rent shall be payable by the instalments and at the times by and at which it is now payable.

(*3*) Rules made by the Financial Commissioner under this or any other section of this Act shall not take effect until they have been sanctioned by the Local Government.

Rules to be made after previous publication.

107. The power to make any rules under this Act is subject to the control of the Governor General in Council, and to the condition of the rules being made after previous publication.

Powers exerciseable by Financial Commissioner from time to time.

108. All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

CHAPTER VIII.

EFFECT OF THIS ACT ON RECORDS-OF-RIGHTS AND AGREEMENTS.

Nullity of certain entries in records-of-rights.

109. An entry in any record-of-rights providing—

(*a*) that a landlord may prevent a tenant from making, or eject him for making, such improvements on his tenancy as he is entitled to make under this Act, or

(*b*) that a tenant ejected from his tenancy shall not be entitled to compensation for improvements or for disturbance in any case in which he would under this Act be entitled to compensation therefor, or

(*c*) that a landlord may eject a tenant otherwise than in accordance with the provisions of this Act,

shall be void to that extent.

Nullity of certain agreements contrary to the Act.

110. *(1)* Nothing in any agreement made between a landlord and a tenant after the passing of this Act shall—

(*a*) override any of the provisions of this Act with respect to the acquisition of a right of occupancy, or the reduction, remission or suspension of rent, or the enhancement of the rent of a tenant having a right of occupancy under section 5 or section 6, or

(*b*) take away or limit the right of a tenant as determined by this Act to make improvements and claim compensation therefor, or, where compensation for disturbance can be claimed under this Act, to claim such compensation, or

(*c*) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.

(*2*) Nothing in clause (*a*) of sub-section (*1*) shall apply to an agreement by which a tenant binds himself to pay an enhanced rent in consideration of an improvement which has been, or is to be, made in respect of his tenancy by, or at the expense of, his landlord, and to the benefit of which the tenant is not otherwise entitled.

The Punjab Tenancy Act, 1887.
(Chapter VIII.—Effect of this Act on Records-of-rights and Agreements.—Sections 111-112. The Schedule.—Enactments repealed.)

111. Save as expressly provided in this Act, nothing in this Act shall affect the operation of any agreement between a landlord and a tenant, when the agreement either is in writing or has been recorded in a record-of-rights before the passing of the Punjab Land-revenue Act, 1887, or been entered by order of a Revenue-officer in a record-of-rights or annual record under the provisions of that Act.

Saving of other agreements when in writing.

112. An entry made with respect to any of the following matters before the eighteenth day of November, 1871, and attested by the proper officer, in the record of a regular settlement sanctioned by the Local Government, namely :—

Effect of certain entries made in records-of-rights before November, 1871.

(*a*) the enhancement or abatement of the rent of a tenant having a right of occupancy, or the commutation of rent in kind into rent in money or of rent in money into rent in kind, or the taking of rent in kind by division or appraisement of the produce or other procedure of a like nature, or

(*b*) the letting or under-letting of land in which there is a right of occupancy by the tenant having that right, or the alienation of or succession to land in which such a right subsists,

shall be deemed to be an agreement within the meaning of the last foregoing section.

THE SCHEDULE.

(*See section 2.*)

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
1	2	3
Acts of the Governor General in Council.		
XXVIII of 1868.	Punjab Tenancy Act.	The whole.
VIII of 1873	Northern India Canal and Drainage Act.	Sections 40 to 43, both inclusive.
XIV of 1875	Punjab Judicial Administration Act.	So much as has not been repealed.
XVIII of 1884.	Punjab Courts Act.	Section 3, clauses (*1*), (*2*), (*4*), (*5*), (*6*) and (*7*) ; the whole of Chapter V ; the last seventeen words of sub-section (*1*) of section 67 ; section 70 so far as regards Revenue Courts ; and section 75.

S. HARVEY JAMES,
Secretary to the Government of India.

The following further Report of the Select Committee on the Bill to amend the law relating to the Tenancy of Land in the Punjab was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th September, 1887 :

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Law relating to the Tenancy of Land in the Punjab was re-committed, have re-considered the Bill and have now the honour to submit this further Report. The alterations which we have made are indicated in italics in the revised Bill annexed to this Report.

2. We have converted the provisions of the Bill relating to the operation of records-of-rights and agreements into a separate Chapter at the end of the Bill. In re-arranging those provisions we have in some respects followed more closely the language of the Punjab Tenancy Act, 1868.

3. The addition which we have made to the definition of "land" in section 4 has reference to water-mills, which in some cases would not be covered by the word "buildings". We have also brought the definition of "land-revenue" more nearly into accord with the definition of that term in the Land-revenue Bill.

4. On the suggestion of the Hon'ble Nawáb Nawazish Ali Khan, we have proposed that, where a right of occupancy under clause (*c*) of section 5 of the Act of 1868 does not already exist at the time when the Act of 1887 comes into force, it shall not be acquired under section 5 of the latter Act if the landlord can prove that the tenant was settled on land previously cleared and brought under cultivation by or at the expense of the person by whom he was settled thereon.

5. On the suggestion of the same gentleman we have provided in sections 13, 20, 21 and 62 for the case, which occasionally occurs in the Punjab, of rents in gross being payable in kind.

6. In section 24 we have provided for rent being enhanced at any time on the extension of irrigation to land previously dry.

7. In section 27 we have provided for the case of an alteration of rates and cesses as well as of land-revenue.

8. In section 60 we have proposed that an irregular transfer of a right of occupancy be only voidable at the instance of the landlord instead of being absolutely void.

9. We have made section 71 applicable not only to a tenant from year to year on whom a notice has been served under section 45, but also to any tenant on whom a notice has been served under section 44.

10. In section 84 we have proposed to make the revisional powers of the Financial Commissioner over the proceedings of Revenue Courts and Revenue-officers co-extensive with those for the time being exerciseable by the Chief Court over the proceedings of Civil Courts.

11. The other amendments are not such as to call for remark.

12. The Bill (No. II) and Report were published in English in the Gazette of India of the 30th July, 1887, and in the Punjab Government Gazette of the 4th August, 1887, and are to be published in Urdu in the Punjab Urdu Gazette of the 8th instant.

13. The Bill has not, in our opinion, been so altered as to require re-publication, and we recommend that it be passed as amended by us.

E. G. WACE.
ANDREW R. SCOBLE.
J. B. PEILE.
J. W. QUINTON.

The 7th September, 1887.

S. HARVEY JAMES,
Secretary to the Government of India.

4*f*

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 23rd September, 1887, and is hereby promulgated for general information :

ACT NO. XVII OF 1887.

THE PUNJAB LAND-REVENUE ACT, 1887.

CONTENTS.

CHAPTER I.

PRELIMINARY.

CHAPTER II.

REVENUE-OFFICERS.

Classes and Powers.

Administrative Control.

Appeal, Review and Revision.

Procedure.

Supplemental Provisions.

CHAPTER III.

KÁNÚNGOS, ZAILDÁRS, INÁMDÁRS AND VILLAGE-OFFICERS.

CHAPTER IV.

RECORDS.

Records-of-rights and Annual Records.

Procedure for making Records.

CHAPTER IX.

PARTITION.

CHAPTER X.

ARBITRATION.

CHAPTER XI.

SPECIAL JURISDICTION WITH RESPECT TO LAND.

CHAPTER XII.

SUPPLEMENTAL PROVISIONS.

Revenue Deposits.

THE SCHEDULE.—ENACTMENTS REPEALED.

An Act to amend and declare the Land-revenue Law of the Punjab.

WHEREAS it is expedient to amend and declare the law in force in the Punjab with respect to the making and maintenance of records-of-rights in land, the assessment and collection of land-revenue, and other matters relating to land and the liabilities incident thereto; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Punjab Land-revenue Act, 1887.

(*2*) It extends to the territories for the time being administered by the Lieutenant-Governor of the Punjab, including the pargana of Spiti, but not so as to affect, otherwise than as expressly provided by this Act, any Regulation in force under the provisions of the Statute 33 Victoria, chapter 3, section 1, in any portion of those territories; and

(*3*) It shall come into force on such day as the Local Government, with the previous sanction of the Governor General in Council, may by notification appoint in this behalf.

(*4*) Any power conferred by this Act on the Financial Commissioner to make rules, and on the Local Government to sanction them, may be

The Punjab Land-revenue Act, 1887.
(Chapter I.—Preliminary.—Sections 2-5.)

exercised at any time after the passing of this Act, but a rule so made shall not take effect till the commencement of this Act.

Repeal.

2. (*1*) The enactments mentioned in the schedule are repealed to the extent specified in the third column thereof.

(*2*) But all rules, appointments, assessments and transfers made, notifications and proclamations issued, authorities and powers conferred, farms and leases granted, records-of-rights and other records framed, revised or confirmed, rights acquired, liabilities incurred, times and places appointed and other things done under any of the repealed enactments shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, framed, revised, confirmed, acquired, incurred, appointed and done under this Act.

(*3*) Any enactment or document referring to any enactment hereby repealed shall be construed as referring to this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "estate" means any area—

(*a*) for which a separate record-of-rights has been made; or

(*b*) which has been separately assessed to land-revenue, or would have been so assessed if the land-revenue had not been released, compounded for or redeemed; or

(*c*) which the Local Government may, by general rule or special order, declare to be an estate:

(*2*) "landowner" does not include a tenant or an assignee of land-revenue, but does include a person to whom a holding has been transferred, or an estate or holding has been let in farm, under this Act for the recovery of an arrear of land-revenue or of a sum recoverable as such an arrear, and every other person not hereinbefore in this clause mentioned who is in possession of an estate or any share or portion thereof, or in the enjoyment of any part of the profits of an estate:

(*3*) "holding" means a share or portion of an estate held by one landowner or jointly by two or more landowners:

of 1887. (*4*) "rent", "tenant", "landlord" and "tenancy" have the meanings respectively assigned to those words in the Punjab Tenancy Act, 1887:

(*5*) "pay", with its grammatical variations and cognate expressions, includes, when used with reference to rent, "deliver" and "render", with their grammatical variations and cognate expressions:

(*6*) "land-revenue" includes assigned land-revenue and any sum payable in respect of land, by way of quit-rent or of commutation for service, to the Government or to a person to whom the Government has assigned the right to receive the payment:

(*7*) "arrear of land-revenue" means land-revenue which remains unpaid after the date on which it becomes payable:

(*8*) "defaulter" means a person liable for an arrear of land-revenue, and includes a person who is responsible as surety for the payment of the arrear:

(*9*) "rates and cesses" means rates and cesses which are primarily payable by landowners, and includes—

(*a*) the local rate, if any, payable under the Punjab Local Rates Act, 1878; V of 1878.

(*b*) the local rate, if any, payable under the Punjab District Boards Act, 1883, and any fee leviable under section 33 of that Act from landowners for the use of or benefits derived from such works as are referred to in section 20, clauses (*i*) and (*j*), of that Act; XX of 1883.

(*c*) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873; VIII of 1873.

(*d*) the zaildári and village-officers' cesses; and

(*e*) sums payable on account of village-expenses:

(*10*) "village-cess" includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service nor imposed by or under any enactment for the time being in force:

(*11*) "village-officer" means a chief-headman, headman or patwári:

(*12*) "Revenue-officer", in any provision of this Act, means a Revenue-officer having authority under this Act to discharge the functions of a Revenue-officer under that provision:

(*13*) "legal practitioner" means any legal practitioner within the meaning of the Legal Practitioners Act, 1879, except a mukhtár: XVIII of 1879.

(*14*) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the Local Government may by notification appoint for any local area:

(*15*) "notification" means a notification published by authority of the Local Government in the official Gazette:

(*16*) "incumbrance" means a charge upon or claim against land arising out of a private grant or contract: and

(*17*) "survey-mark" includes boundary-mark.

Exclusion of certain land from operation of Act.

4. (*1*) Except so far as may be necessary for the record, recovery and administration of village-cesses, nothing in this Act applies to land which is occupied as the site of a town or village and is not assessed to land-revenue.

(*2*) A Revenue-officer may define for the purposes of this Act the limits of any such land.

Power to vary limits and alter number of tahsils, districts and divisions.

5. The Local Government may by notification vary the limits of the tahsils, districts and divisions into which the territories administered by it are divided, and may by notification alter the number of those tahsils and, with the previous sanction of the Governor General in Council, the number of those districts and divisions.

The Punjab Land-revenue Act, 1887.
(Chapter II.—Revenue-officers.—Sections 6-12.)

CHAPTER II.

REVENUE-OFFICERS.

Classes and Powers.

Classes of Revenue-officers.

6. (*1*) There shall be the following classes of Revenue-officers, namely:—

(*a*) the Financial Commissioner;

(*b*) the Commissioner;

(*c*) the Collector;

(*d*) the Assistant Collector of the first grade; and

(*e*) the Assistant Collector of the second grade.

(*2*) The Deputy Commissioner of a district shall be the Collector thereof.

(*3*) The Local Government may appoint any Assistant Commissioner, Extra Assistant Commissioner or Tahsildár to be an Assistant Collector of the first or of the second grade, as it thinks fit, and any Naib-tahsildár to be an Assistant Collector of the second grade.

(*4*) Appointments under sub-section (*2*) shall be by notification, and may be of a person specially by name or by virtue of his office or of more persons than one by any description sufficient for their identification.

(*5*) Subject to the provisions of this Act the jurisdiction of the Financial Commissioner extends to the whole of the territories for the time being administered by the Lieutenant-Governor of the Punjab, and of Commissioners and of Collectors and Assistant Collectors to the divisions and districts respectively in which they are for the time being employed.

Financial Commissioner.

7. (*1*) There shall be one or more Financial Commissioners, who shall be appointed, and may be removed, by the Local Government with the previous sanction of the Governor General in Council.

(*2*) Where more Financial Commissioners than one have been appointed, the Local Government may make rules as to the distribution among them of business under this or any other Act, and by those rules require any case or class or classes of cases to be considered and disposed of by the Financial Commissioners collectively.

(*3*) When there is a difference of opinion among the Financial Commissioners as to any decree or order to be made in a case which they are required by rules under the last foregoing sub-section to consider and dispose of collectively, the following rules shall apply, namely:—

(*a*) where the case is an appeal or a case on review or revision, it shall be decided in accordance with the opinion of the majority of the Financial Commissioners, or, if there is no such majority which concurs in a decision modifying or reversing the decree or order under appeal, review or revision, that decree or order shall be affirmed: and

(*b*) where the case is not an appeal or a case on review or revision, the matter respecting which there is the difference of opinion shall be referred to the Local Government for decision, and the decision of that Government with respect thereto shall be final.

(*4*) The expression "Financial Commissioner" in this or any other Act shall, when there are more Financial Commissioners than one, be construed as meaning one or more of the Financial Commissioners as the rules for the time being in force under sub-section (*2*) may require.

(*5*) The second Financial Commissioner appointed under section 52 of the Punjab Courts Act, 1884, shall be deemed to have had jurisdiction on and after the first day of November, 1884, to make any decree or order or dispose of any other business which might have been made or disposed of by the other Financial Commissioner. XVIII, 1884.

Appointment of Commissioners, and of Deputy, Assistant and Extra Assistant Commissioners.

8. Commissioners, Deputy Commissioners, Assistant Commissioners and Extra Assistant Commissioners shall be appointed and may be removed by the Local Government.

Appointment of Tahsildárs and Naib-tahsildárs.

9. The Local Government shall fix the number of Tahsildárs and Naib-tahsildárs to be appointed, and the Financial Commissioner may make rules for their appointment and removal.

Powers of Revenue-officers.

10. Except where the class of the Revenue-officer by whom any function is to be discharged is specified in this Act, the Local Government may by notification determine the functions to be discharged under this Act by any class of Revenue-officers.

Administrative Control.

Superintendence and control of Revenue-officers.

11. (*1*) The Financial Commissioner shall be subject to the control of the Local Government.

(*2*) The general superintendence and control over all other Revenue-officers shall be vested in, and all such officers shall be subordinate to, the Financial Commissioner.

(*3*) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers in his division.

(*4*) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue-officers in his district.

Power to distribute business and withdraw and transfer cases.

12. (*1*) The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue-officer under his control.

(*2*) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer under his control.

(*3*) An order under sub-section (*1*) or sub-section (*2*) shall not empower any officer to exercise any powers or deal with any business which he would not be competent to exercise or deal with within the local limits of his own jurisdiction.

The Punjab Land-revenue Act, 1887.
(Chapter II.—Revenue-officers.—Sections 13-18.)

Appeal, Review and Revision.

13. Save as otherwise provided by this Act, an appeal shall lie from an original or appellate order of a Revenue-officer as follows, namely:—

Appeals.

(a) to the Collector when the order is made by an Assistant Collector of either grade;

(b) to the Commissioner when the order is made by a Collector;

(c) to the Financial Commissioner when the order is made by a Commissioner:

Provided that—

(i) when an original order is confirmed on first appeal, a further appeal shall not lie;

(ii) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on further appeal, if any, to him shall be final.

14. Save as otherwise provided by this Act, the period of limitation for an appeal under the last foregoing section shall run from the date of the order appealed against, and shall be as follows, that is to say:—

Limitation for appeals.

(a) when the appeal lies to the Collector—thirty days;

(b) when the appeal lies to the Commissioner—sixty days;

(c) when the appeal lies to the Financial Commissioner—ninety days.

15. (1) A Revenue-officer may, either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm, any order passed by himself or by any of his predecessors in office:

Review by Revenue-officers.

Provided as follows:

(a) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue-officer of a class below that of Collector proposes to review any order, whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject;

(b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period;

(c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;

(d) an order against which an appeal has been preferred shall not be reviewed.

(2) For the purposes of this section, the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

(3) An appeal shall not lie from an order refusing to review or confirming on review a previous order.

16. (1) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer subordinate to him.

Power to call for, examine and revise proceedings of Revenue-officers.

(2) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer under his control.

(3) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner.

(4) The Financial Commissioner may in any case called for by himself under sub-section (1) or reported to him under sub-section (3) pass such order as he thinks fit:

Provided that he shall not under this section pass an order reversing or modifying any proceeding or order of a subordinate Revenue-officer and affecting any question of right between private persons without giving those persons an opportunity of being heard.

Procedure.

17. (1) The Local Government may make rules consistent with this Act for regulating the procedure of Revenue-officers under this Act in cases in which a procedure is not prescribed by this Act.

Power to make rules as to procedure.

(2) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(3) Subject to the rules under this section, a Revenue-officer may refer any case which he is empowered to dispose of under this Act to another Revenue-officer for investigation and report, and may decide the case upon the report.

18. (1) Appearances before a Revenue-officer, and applications to and acts to be done before him, under this Act may be made or done—

Persons by whom appearances and applications may be made before and to Revenue-officers.

(a) by the parties themselves, or

(b) by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

(2) For the purposes of sub-section (1), recognized agents shall be such persons as the Local Government may by notification declare in this behalf.

(3) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue-officer under this Act unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

The Punjab Land-revenue Act, 1887.
(Chapter II.—Revenue-officers.—Sections 19-27. Chapter III.—Kánúngos, Zaildárs, Inámdárs and Village-officers.—Section 28.)

Power of Revenue-officer to summon persons.

19. (*1*) A Revenue-officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a Revenue-officer.

(*2*) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or a legal practitioner.

(*3*) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as the Revenue-officer may require.

Mode of service of summons.

20. (*1*) A summons issued by a Revenue-officer shall, if practicable, be served (*a*) personally on the person to whom it is addressed, or failing him on (*b*) his recognized agent or (*c*) an adult male member of his family usually residing with him.

(*2*) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue-officer is employed and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

(*3*) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer so directs, be served by delivery of a copy thereof to such of those persons as the Revenue-officer nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(*4*) A summons may, if the Revenue-officer so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Part III of the Indian Post Office Act, 1866.

XIV of 1866.

(*5*) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the Revenue-officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

Mode of service of notice, order or proclamation or copy thereof.

21. A notice, order or proclamation, or copy of any such document, issued by a Revenue-officer for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

Mode of making proclamation.

22. When a proclamation relating to any land is issued by a Revenue-officer, it shall, in addition to any other mode of publication which may be prescribed in any provision of this Act, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

Supplemental Provisions.

Place of sitting.

23. (*1*) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed.

(*2*) Any other Revenue-officer may only exercise his powers under this Act within the local limits of his jurisdiction.

Holidays.

24. (*1*) The Financial Commissioner, with the approval of the Local Government, shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers.

(*2*) A proceeding had before a Revenue-officer on a day specified in the list as a day to be observed by him as a holiday shall not be invalid by reason only of its having been had on that day.

Discharge of duties of Collector dying or being disabled.

25. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Collector under this Act.

Retention of powers by Revenue-officers on transfer.

26. When a Revenue-officer of any class who has been invested under the foregoing provisions of this Act with any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer of the same or a higher class, he shall continue to exercise those powers in that other local area unless the Local Government otherwise directs or has otherwise directed.

Conferment of powers of Revenue-officer.

27. (*1*) The Local Government may by notification confer on any person—

(*a*) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act, or

(*b*) all or any of the powers with which an Assistant Collector may be invested thereunder,

and may by notification withdraw any powers so conferred.

(*2*) A person on whom powers are conferred under sub-section (*1*) shall exercise those powers within such local limits and in such classes of cases as the Local Government may direct, and, except as otherwise directed by the Local Government, shall for all purposes connected with the exercise thereof be deemed to be a Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be.

(*3*) If any of the powers of a Collector under this Act are conferred on an Assistant Collector, they shall, unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

CHAPTER III.

KÁNÚNGOS, ZAILDÁRS, INÁMDÁRS AND VILLAGE-OFFICERS.

Rules respecting kánúngos, zaildárs, inámdárs and village-officers.

28. (*1*) The Financial Commissioner may make rules to regulate the appointment, duties, emoluments, punishment, suspension and removal of kánúngos, zaildárs, inámdárs and village-officers.

The Punjab Land-revenue Act, 1887.
(Chapter III.—Kánúngos, Zaildárs, Inámdárs and Village-officers.—Sections 29-30. Chapter IV.—Records.—Sections 31-34.)

(2) Rules under sub-section (1) may direct that the emoluments of a zaildár, inámdár or village-officer shall be such a percentage payable out of the land-revenue as may be prescribed by the rules, and that, where the land-revenue has been released, compounded for or redeemed, the percentage shall be a charge payable by the person who would be liable for the land-revenue if it had not been released, compounded for or redeemed.

Village-officers' cess.

29. (1) The Local Government may by notification impose on any estate, or on all or any estates in any local area, a cess, to be called the village-officers' cess, at a rate not exceeding one anna for every rupee of the annual value, for remunerating village-officers and for defraying other expenditure directly connected with the supervision of those officers or with the performance of their duties.

(2) "Annual value" in the last foregoing sub-section has the meaning assigned to that expres-
X of 1883. sion in the Punjab District Boards Act, 1883.

(3) The Financial Commissioner may make rules for the collection, control and expenditure of the village-officers' cess.

(4) All cesses now levied in any local area for the purposes mentioned in sub-section (1) shall be deemed to have been lawfully imposed and shall, until the village-officers' cess is imposed in that local area under that sub-section, be deemed to be lawfully leviable and, for the purposes of this section, to be that cess.

Restriction on attachment or assignment of remuneration of kánúngos, zaildárs, inámdárs and village-officers.

30. (1) The emoluments of a kánúngo, zaildár, inámdár or village-officer shall not be liable to attachment in execution of a decree or order of any Civil or Revenue Court.

(2) An assignment of, or charge on, or an agreement to assign or charge, any such emoluments shall be void unless it is authorised by rules made by the Financial Commissioner in this behalf.

CHAPTER IV.

RECORDS.

Records-of-rights and Annual Records.

Record-of-rights and documents included therein.

31. (1) Save as otherwise provided by this Chapter, there shall be a record-of-rights for each estate.

(2) The record-of-rights for an estate shall include the following documents, namely :—

(a) statements showing, so far as may be practicable,—

(i) the persons who are landowners, tenants or assignees of land-revenue in the estate, or who are entitled to receive any of the rents, profits or produce of the estate or to occupy land therein;

(ii) the nature and extent of the interests of those persons, and the conditions and liabilities attaching thereto; and

(iii) the rent, land-revenue, rates, cesses or other payments due from and to each of those persons and to the Government;

(b) a statement of customs respecting rights and liabilities in the estate;

(c) a map of the estate; and

(d) such other documents as the Financial Commissioner may, with the previous sanction of the Local Government, prescribe.

Making or special revision of record-of-rights.

32. (1) When it appears to the Local Government that a record-of-rights for an estate does not exist, or that the existing record-of-rights for an estate requires special revision, the Local Government may by notification direct that a record-of-rights be made or that the record-of-rights be specially revised, as the case may be.

(2) The notification may direct that records-of-rights shall be made or specially revised for all or any estates in any local area.

(3) A record-of-rights made or specially revised for an estate under this section shall be deemed to be the record-of-rights for the estate, but shall not affect any presumption in favour of the Government which has already arisen from any previous record-of-rights.

Annual record.

33. (1) The Collector shall cause to be prepared by the patwári of each estate yearly, or at such other intervals as the Financial Commissioner may prescribe, an edition of the record-of-rights amended in accordance with the provisions of this Chapter.

(2) This edition of the record-of-rights shall be called the annual record for the estate, and shall comprise the statements mentioned in sub-section (2), clause (a), of section 31 and such other documents, if any, as the Financial Commissioner may, with the previous sanction of the Local Government, prescribe.

(3) For the purposes of the preparation of the annual record, the Collector shall cause to be kept up by the patwári of each estate a register of mutations and such other registers as the Financial Commissioner may prescribe.

Procedure for making Records.

Making of that part of the annual record which relates to landowners, assignees of revenue and occupancy-tenants.

34. (1) Any person acquiring, by inheritance, purchase, mortgage, gift or otherwise, any right in an estate as a landowner, assignee of land-revenue or tenant having a right of occupancy, shall report his acquisition of the right to the patwári of the estate.

(2) If the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the patwári.

(3) The patwári shall enter in his register of mutations every report made to him under sub-section (1) or sub-section (2), and shall also make an entry therein respecting the acquisition of any such right as aforesaid which he has reason to believe to have taken place and of which a report should have been made to him under one or other of those sub-sections and has not been so made.

(4) A Revenue-officer shall from time to time inquire into the correctness of all entries

The Punjab Land-revenue Act, 1887.
(Chapter IV.—Records.—Sections 35-43.)

register of mutations and into all such acquisitions as aforesaid coming to his knowledge of which, under the foregoing sub-sections, report should have been made to the patwári and entry made in that register, and shall in each case make such order as he thinks fit with respect to the entry in the annual record of the right acquired.

(5) Such an entry shall be made by the insertion in that record of a description of the right acquired and by the omission from that record of any entry in any record previously prepared which by reason of the acquisition has ceased to be correct.

Making of that part of the annual record which relates to other persons.

35. The acquisition of any interest in land other than a right referred to in sub-section (*1*) of the last foregoing section shall,—

(*a*) if it is undisputed, be recorded by the patwári in such manner as the Financial Commissioner may by rules in this behalf prescribe; and,

(*b*) if it is disputed, be entered by the patwári in the register of mutations and dealt with in the manner prescribed in sub-sections (*4*) and (*5*) of the last foregoing section.

Determination of disputes.

36. (*1*) If during the making, revision or preparation of any record or in the course of any inquiry under this Chapter a dispute arises as to any matter of which an entry is to be made in a record or in a register of mutations, a Revenue-officer may of his own motion, or on the application of any party interested, but subject to the provisions of the next following section, and after such inquiry as he thinks fit, determine the entry to be made as to that matter.

(*2*) If in any such dispute the Revenue-officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates, he shall ascertain by summary inquiry who is the person best entitled to the property, and shall by order direct that that person be put in possession thereof, and that an entry in accordance with that order be made in the record or register.

(*3*) A direction of a Revenue-officer under sub-section (*2*) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

Restrictions on variation of entries in records.

37. Entries in records-of-rights or in annual records, except entries made in annual records by patwáris under clause (*a*) of section 35 with respect to undisputed acquisitions of interests referred to in that section, shall not be varied in subsequent records otherwise than by—

(*a*) making entries in accordance with facts proved or admitted to have occurred;

(*b*) making such entries as are agreed to by all the parties interested therein or are supported by a decree or order binding on those parties;

(*c*) making new maps where it is necessary to make them.

Mutation-fees.

38. (*1*) The Local Government may fix a scale of fees for all or any classes of entries in any record or register under this Chapter and for copies of any such entries.

(*2*) A fee in respect of an entry shall be payable by the person in whose favour the entry is made.

Penalty for neglect to report acquisition of any right referred to in section 34.

39. Any person neglecting to make the report required by section 34 within three months from the date of his acquisition of a right referred to in that section shall be liable, at the discretion of the Collector, to a fine not exceeding five times the amount of the fee which would have been payable according to the scale fixed under the last foregoing section if the acquisition of the right had been reported immediately after its accrual.

Obligation to furnish information necessary for the preparation of records.

40. Any person whose rights, interests or liabilities are required to be entered in any record under this Chapter shall be bound to furnish, on the requisition of any Revenue-officer or village-officer engaged in compiling the record, all information necessary for the correct compilation thereof.

Rights of the Government and presumptions with respect thereto and to other matters.

Rights of the Government in mines and minerals.

41. All mines of metal and coal, and all earth-oil and gold-washings, shall be deemed to be the property of the Government, and the Government shall have all powers necessary for the proper enjoyment of its right thereto.

Presumption as to ownership of forests, quarries and waste-lands.

42. (*1*) When in any record-of-rights completed before the eighteenth day of November, 1871, it is not expressly provided that any forest, quarry, unclaimed, unoccupied, deserted or waste land, spontaneous produce or other accessory interest in land belongs to the landowners, it shall be presumed to belong to the Government.

(*2*) When in any record-of-rights completed after that date it is not expressly provided that any forest or quarry or any such land or interest belongs to the Government, it shall be presumed to belong to the landowners.

(*3*) The presumption created by sub-section (*1*) may be rebutted by showing—

(*a*) from the record or report made by the assessing officer at the time of assessment, or

(*b*) if the record or report is silent, then from a comparison between the assessment of villages in which there existed, and the assessment of villages of similar character in which there did not exist, any forest or quarry, or any such land or interest,

that the forest, quarry, land or interest was taken into account in the assessment of the land-revenue.

(*4*) Until the presumption is so rebutted, the forest, quarry, land or interest shall be held to belong to the Government.

Compensation for infringement of rights of third parties in exercise of a right of the Government.

43. (*1*) Whenever, in the exercise of any right of the Government referred to in either of the two last foregoing sections, the rights of any person are infringed by the occupation or disturbance of the surface of any land, the

The Punjab Land-revenue Act, 1887.
(Chapter IV.—Records.—Sections 44-47. Chapter V.—Assessment.—Sections 48-55.)

Government shall pay, or cause to be paid, to that person compensation for the infringement.

(2) The compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1870.

1870.

Presumption in favour of entries in records-of-rights and annual records.

44. An entry made in a record-of-rights in accordance with the law for the time being in force, or in an annual record in accordance with the provisions of this Chapter and the rules thereunder, shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.

Suit for declaratory decree by person aggrieved by an entry in a record.

45. If any person considers himself aggrieved as to any right of which he is in possession by an entry in a record-of-rights or in an annual record, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1877.

1877.

Supplemental Provisions.

Power to make rules respecting records and other matters connected therewith.

46. The Financial Commissioner may make rules—

(*a*) prescribing the language in which records and registers under this Chapter are to be made;

(*b*) prescribing the form of those records and registers, and the manner in which they are to be prepared, signed and attested;

(*c*) for the survey of land so far as may be necessary for the preparation and correction of those records and registers;

(*d*) for the conduct of inquiries by Revenue-officers under this Chapter; and

(*e*) generally for the guidance of Revenue-officers and village-officers in matters pertaining to records and registers mentioned or referred to in this Chapter.

Records-of-rights and annual records for groups of estates.

47. (*1*) The Financial Commissioner may direct that a record-of-rights be made for any group of neighbouring estates instead of separately for each of the estates.

(*2*) The provisions of this Chapter with respect to a record-of-rights and annual record for an estate shall then, so far as they can be made applicable, apply to a record-of-rights and annual record for a group of estates.

CHAPTER V.

ASSESSMENT.

Assessment of land-revenue.

48. (*1*) All land, to whatever purpose applied and wherever situate, is liable to the payment of land-revenue to the Government, except such land as has been wholly exempted from that liability by special contract with the Government or by the provisions of any law for the time being in force.

(*2*) Land-revenue may be assessed in cash or in kind, or partly in cash and partly in kind, as the Local Government may direct.

(*3*) Land may be assessed to land-revenue notwithstanding that that revenue, by reason of its having been assigned, released, compounded for or redeemed is not payable to the Government.

General Assessments.

Notification of intended re-assessment and instructions as to principles of assessment.

49. (*1*) A general re-assessment of the land-revenue of a district or tahsil shall not be undertaken without the previous sanction of the Governor General in Council and notification of that sanction.

(*2*) In granting the sanction the Governor General in Council may prescribe such principles of assessment and give such other instructions as he thinks fit.

Mode of determining assessment.

50 (*1*) The assessment shall be made by a Revenue-officer.

(*2*) Before making it that officer shall report his proposed method of assessment for the sanction of the Financial Commissioner in such form as the Financial Commissioner, with the previous sanction of the Local Government, may prescribe.

Announcement of assessment.

51. (*1*) When the Revenue-officer has obtained the sanction of the Financial Commissioner to his proposed method of assessment, he shall make an order determining the assessment proper for each estate and announce it in such manner as the Local Government may prescribe.

(*2*) At the time of announcing the assessment he shall also declare the date from which it is to take effect, and, subject to the other provisions of this Act, it shall take effect accordingly.

Application for re-consideration of assessment.

52. (*1*) The landowner may, within thirty days from the date of the announcement of the assessment, present a petition to the Revenue-officer for a re-consideration of the amount, form or conditions of the assessment.

(*2*) Where the land-revenue is assigned, the assignee thereof may within thirty days from that date present a like petition to the Revenue-officer.

(*3*) The order passed by the Revenue-officer on the petition shall set forth his reasons for granting or refusing it.

Confirmation and duration of assessment.

53. (*1*) An assessment of the land-revenue of a district or tahsil shall not be considered final until it has been confirmed by the Local Government.

(*2*) At any time before an assessment is so confirmed the Commissioner or Financial Commissioner may modify the assessment of any estate in the district or tahsil.

(*3*) The Local Government shall, when confirming an assessment under sub-section (*1*), fix the period for which the assessment is to be in force.

Assessment to remain in force till new assessment takes effect.

54. Notwithstanding the expiration of the period fixed for the continuance of an assessment under sub-section (*3*) of the last foregoing section, the assessment shall remain in force till a new assessment takes effect.

Refusal to be liable for assessment and consequences thereof.

55. (*1*) At any time within ninety days from the date of the announcement of an assessment the landowner or, where there are more landowners than one, any of them who would be individually or collectively liable for more than half the sum assessed may give notice to

the Revenue-officer of refusal to be liable for the assessment.

(2) When the Revenue-officer receives a notice under sub-section (1), the Collector may take possession of the estate and deal with it, as nearly as may be, as if the annulment of the assessment thereof had been ordered as a process for the recovery of an arrear of land-revenue due thereon.

(3) While the estate is in the possession of the Collector, the landowner or landowners shall be entitled to receive from the Government an allowance, to be fixed by the Financial Commissioner, which shall not be less than five or more than ten per cent. of the net income realized by the Government from the estate.

Distribution of the assessment of an estate over the holdings comprised therein.

56. (1) If the assessment announced under section 51 is in whole or in part a fixed assessment of an estate for a term of years, the Revenue-officer shall, before the date on which the first instalment thereof becomes payable, make an order distributing it over the several holdings comprised in the estate and make and publish a record of the distribution.

(2) The Collector may for sufficient reason make an order revising that record at any time while the assessment continues to be in force, and publish the record so revised.

(3) If the assessment announced under section 51 is in the form of rates chargeable according to the results of each year or harvest, a Revenue-officer shall from year to year or from harvest to harvest, as the conditions of the assessment may require, make and publish, not later than one month before the first instalment of the land-revenue falls due, a record of the amount payable in respect of each holding.

(4) The Financial Commissioner may make rules for the guidance of Revenue-officers in making, publishing and revising records under this section.

Application for amendment of the distribution of an assessment.

57. (1) Any person affected by a record made under sub-section (1) or sub-section (3) of the last foregoing section, or by the revision of a record under sub-section (2) of that section, may, within thirty days from the date of the publication of the record, present a petition to the Revenue-officer for a re-consideration of the record so far as it affects him.

(2) The order passed by the Revenue-officer on the petition shall set forth his reasons for granting or refusing it.

Appeals from orders under sections 52 and 57.

58. An appeal from an order under the last foregoing section or section 52 shall lie to the Commissioner, and from the appellate order of the Commissioner to the Financial Commissioner.

Special Assessments.

Special assessments.

59. (1) Special assessments may be made by Revenue-officers in the following cases, namely :—

(a) when estates are formed under the next following section ;

(b) when land-revenue which has been released or assigned is resumed ;

(c) when waste-lands are sold, leased or granted by the Government ;

(d) when the assessment of any land has been annulled or the landowner has refused to be liable therefor, and the term for which the land was to be managed by the Collector or his agent or let in farm has expired ;

(e) when assessments of land-revenue require revision in consequence of the action of water or sand or of calamity of season or from any other cause ;

(f) when revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42, has not been included in an assessment made under the foregoing provisions of this Chapter.

(2) The Financial Commissioner may make rules for the guidance of Revenue-officers in making special assessments, and may confirm such assessments.

(3) The foregoing provisions of this Chapter with respect to general assessments shall, subject to such modifications thereof as the Financial Commissioner may prescribe by rules under the last foregoing sub-section, regulate the procedure of Revenue-officers making special assessments.

Formation of waste-land into separate estates.

60. (1) When, in the opinion of the Collector or of an officer making a general re-assessment of land-revenue under the foregoing provisions of this Chapter, the waste-land belonging to or adjoining an estate is so extensive as to exceed the requirements of the owners of the estate with reference to pasturage or other useful purpose, the Collector or officer may at any time, with the previous sanction of the Financial Commissioner, make a separate assessment of the waste-land which he considers to be so in excess, and offer that land at that assessment, for such term and on such conditions as he thinks fit, to the owners of the estate to which it belongs, and, if they refuse the offer, to the owners of any estate which the land adjoins, and, if they also refuse the offer, to any other person.

(2) When the owners of the estate to which the waste-land belongs refuse the offer, the Collector shall assign to them an annual allowance not less than five and not more than ten per cent. of the net income realized by the Government from the land.

CHAPTER VI.

COLLECTION OF LAND-REVENUE.

Security for payment of land-revenue.

61. (1) In the case of every estate, the entire estate and the landowner or, if there are more than one, the landowners jointly and severally shall be liable for the land-revenue for the time being assessed on the estate:

Provided that—

(a) the Local Government, with the previous sanction of the Governor General in Council, may by notification declare that in any estate a holding or its owner shall

The Punjab Land-revenue Act, 1887.
(Chapter VI.—Collection of Land-revenue.—Sections 62-71.)

for the time being assessed on the estate except that part which is payable in respect of the holding; and

(*b*) when there are superior and inferior landowners in the same estate, the Financial Commissioner may by rule, or by special order in each case, determine whether the superior or inferior landowners shall be liable for the land-revenue, or whether both shall be so liable, and, if so, in what proportions.

(*2*) A notification under proviso (*a*) to sub-section (*1*) may have reference to any single estate or to any class of estates or estates generally in any local area.

Further security for payment of land-revenue.

62. (*1*) The land-revenue for the time being assessed on an estate or payable in respect of a holding shall be the first charge upon the rents, profits and produce thereof.

(*2*) Without the previous consent of the Collector, the rents, profits or produce of an estate or holding shall not be liable to be taken in execution of a decree or order of any Court until the land-revenue chargeable against the rents, profits or produce, and any arrear of land-revenue due in respect of the estate or holding, have been paid.

Orders to regulate payment of land-revenue.

63. (*1*) Notwithstanding anything in any record-of-rights, the Financial Commissioner may fix the number and amount of the instalments, and the times, places and manner, by, at and in which land-revenue is to be paid.

(*2*) Until the Financial Commissioner otherwise directs, land-revenue shall be payable by the instalments, at the times and places and in the manner, by, at and in which it is payable at the commencement of this Act.

Rules to regulate collection, remission and suspension of land-revenue.

64. (*1*) The Financial Commissioner may make rules consistent with this Act to regulate the collection, remission and suspension of land-revenue, and may by those rules determine the circumstances and terms in and on which assigned land-revenue may be collected by the assignee.

(*2*) Where land-revenue due to an assignee is collected by a Revenue-officer, there shall be deducted from the sum collected such a percentage on account of the cost of collection as the Financial Commissioner may by rule in this behalf prescribe.

(*3*) A suit for an arrear of assigned land-revenue shall not be entertained unless there is annexed to the plaint at the time of the presentation thereof a document under the hand of the Collector specially authorising the institution of the suit.

Costs recoverable as part of arrear.

65. The costs of any process issued under this Chapter shall be recoverable as part of the arrear of land-revenue in respect of which the process was issued.

Certified account to be evidence as to arrear.

66. A statement of account certified by a Revenue-officer shall be conclusive proof of the existence of an arrear of land-revenue, of its amount and of the person who is the defaulter.

Processes for recovery of arrears.

67. Subject to the other provisions of this Act, an arrear of land-revenue may be recovered by any one or more of the following processes, namely :—

(*a*) by service of a writ of demand on the defaulter ;

(*b*) by arrest and detention of his person ;

(*c*) by distress and sale of his moveable property and uncut or ungathered crops ;

(*d*) by transfer of the holding in respect of which the arrear is due ;

(*e*) by attachment of the estate or holding in respect of which the arrear is due ;

(*f*) by annulment of the assessment of that estate or holding ;

(*g*) by sale of that estate or holding ;

(*h*) by proceedings against other immoveable property of the defaulter.

Writ of demand.

68. A writ of demand may be issued by a Revenue-officer on or after the day following that on which an arrear of land-revenue accrues.

Arrest and detention of defaulter.

69. (*1*) At any time after an arrear of land-revenue has accrued a Revenue-officer may issue a warrant directing an officer named therein to arrest the defaulter and bring him before the Revenue-officer.

(*2*) When the defaulter is brought before the Revenue-officer, the Revenue-officer may cause him to be taken before the Collector, or may keep him under personal restraint for a period not exceeding ten days and then, if the arrear is still unpaid, cause him to be taken before the Collector.

(*3*) When the defaulter is brought before the Collector, the Collector may issue an order to the officer in charge of the civil jail of the district, directing him to confine the defaulter in the jail for such period, not exceeding one month from the date of the order, as the Collector thinks fit.

(*4*) The process of arrest and detention shall not be executed against a defaulter who is a female, a minor, a lunatic or an idiot.

Distress and sale of moveable property and crops.

70. (*1*) At any time after an arrear of land-revenue has accrued, the moveable property and uncut or ungathered crops of the defaulter may be distrained and sold by order of a Revenue-officer.

(*2*) The distress and sale shall be conducted, as nearly as may be, in accordance with the law for the time being in force for the attachment and sale of moveable property under the decree of a Revenue Court constituted under the Punjab Tenancy Act, 1887 :

Provided that, in addition to the particulars exempted by that law from liability to sale, so much of the produce of the land of the defaulter as the Collector thinks necessary for seed-grain and for the subsistence, until the harvest next following, of the defaulter and his family, and of any cattle exempted by that law, shall be exempted from sale under this section.

Transfer of holding.

71. (*1*) At any time after an arrear of land-revenue has accrued on a holding, the Collector may transfer the holding to any person being a landowner of the estate in which the holding is

situate and not being a defaulter in respect of his own holding, on condition of his paying the arrear before being put in possession of the holding, and on such further conditions as the Collector may see fit to prescribe.

(*2*) The transfer may, as the Collector thinks fit, be either till the end of the agricultural year in which the defaulter pays to the transferee the amount of the arrear which the transferee paid before being put in possession of the holding, or for a term not exceeding fifteen years from the commencement of the agricultural year next following the date of the transfer.

(*3*) The Collector shall report to the Financial Commissioner any transfer made by him under this section, and the Financial Commissioner may set aside the transfer or alter the conditions thereof, or pass such other order as he thinks fit.

(*4*) A transfer under this section shall not affect the joint and several liability of the landowners of the estate in which it is enforced.

(*5*) In respect of all rights and liabilities arising under this Act the person to whom the holding is transferred shall, subject to the conditions of the transfer, stand in the same position as that in which the defaulter would have stood if the holding had not been transferred.

(*6*) When the transfer was for a term, the holding shall, on the expiration of the term, be restored by the Collector to the defaulter free of any claim on the part of the Government or the transferee for any arrear of land-revenue or rates and cesses due in respect thereof.

Attachment of estate or holding.

72. (*1*) At any time after an arrear of land-revenue has accrued, the Collector may cause the estate or holding in respect of which the arrear is due to be attached and taken under his own management or that of an agent appointed by him for that purpose.

(*2*) The Collector or the agent shall be bound by all the engagements which existed between the defaulter and his tenants, if any, and shall be entitled to manage the land and to receive all rents and profits accruing therefrom to the exclusion of the defaulter until the arrear has been satisfied, or until the Collector restores the land to the defaulter.

(*3*) All surplus profits of the land attached beyond the cost of attachment and management and the amount necessary to meet the current demand for land-revenue and rates and cesses shall be applied in discharge of the arrear.

(*4*) Land shall not be attached for the same arrear for a longer term than five years from the commencement of the agricultural year next following the date of the attachment, but, if the arrear is sooner discharged, the land shall be released and the surplus receipts, if any, made over to the landowner.

Annulment of assessment of estate or holding.

73. (*1*) When an arrear of land-revenue has been due for a longer period than one month, and the foregoing processes are not deemed sufficient for the recovery thereof, the Financial Commissioner may, in addition to or instead of all or any of those processes, order the existing assessment of the estate or holding in respect of which the arrear is due to be annulled.

(*2*) The provisions of this section shall not be put in force for the recovery of an arrear of land-revenue which has accrued on land—

(*a*) while under attachment under the last foregoing section, or

(*b*) while under the charge of the Court of Wards.

(*3*) When the assessment of any land has been annulled, the Collector may, with the previous sanction of the Financial Commissioner, either manage the land himself or through an agent, or let it in farm to any person willing to accept the farm, for such term and on such conditions as may be sanctioned by the Financial Commissioner:

Provided that the term for which land may be so managed or farmed shall not be longer than fifteen years from the commencement of the agricultural year next following the date of the annulment.

(*4*) At some time before the expiration of that term the Collector shall determine the assessment to be paid in respect of the estate or holding for the remainder of the term of the current assessment of the district or tahsil, and, when that assessment has been sanctioned by the Financial Commissioner, shall announce it to the landowner.

(*5*) The landowner may give notice to the Collector of refusal to be liable for the assessment within thirty days from the date on which the assessment was announced to him.

(*6*) If notice is so given, the Collector may, with the previous sanction of the Financial Commissioner, take the estate or holding under direct management or farm it for the remainder of the term of the current assessment of the district or tahsil, or for any period within that term which the Financial Commissioner may fix.

(*7*) When the assessment of a holding is annulled, the joint responsibility of the other landowners of the estate for the land-revenue of that holding becoming due after the annulment shall be in abeyance until a new assessment takes effect.

(*8*) The Financial Commissioner may direct that any contract made by the defaulter, or by any person through whom the defaulter claims, with respect to any land comprised in an estate or holding of which the assessment has been annulled shall not be binding on the Collector or his agent or farmer during the period for which the estate or holding remains under the management of the Collector or his agent or is let in farm.

Proclamation of attachment or annulment of assessment, and consequences of the proclamation.

74. (*1*) When any land is attached under section 72, or when the assessment of any land has been annulled under the last foregoing section, the Collector shall make proclamation thereof.

(*2*) No payment made by any person to the defaulter before the making of the proclamation on account of rent or any other asset in anticipation of the usual time for the payment shall, without the special sanction of the Collector, be credited to that person or relieve him from liability to make the payment to the Collector or his agent or farmer.

The Punjab Land-revenue Act, 1887.
(Chapter VI.—Collection of Land-revenue.—Sections 75-79.)

(3) No payment made after the making of the proclamation on account of rent or any other asset of the estate or holding to any person other than the Collector or his agent or farmer shall be credited to the person making the payment or relieve him from liability to make the payment to the Collector or his agent or farmer.

Sale of estate or holding.

75. When an arrear of land-revenue has accrued and the foregoing processes are not deemed sufficient for the recovery thereof, the Collector, with the previous sanction of the Financial Commissioner, may, in addition to, or instead of, all or any of those processes, and subject to the provisions hereinafter contained, sell the estate or holding in respect of which the arrear is due:

Provided that land shall not be sold for the recovery of—

(*a*) any arrear which has accrued while the land was under the charge of the Court of Wards, or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the provisions of section 35 of the Punjab Laws Act, 1872, clause (*a*), (*b*), (*c*) or (*d*); or

[...] of 1872.

(*b*) any arrear which has accrued while the land was under attachment under section 72 of this Act; or

(*c*) any arrear which has accrued while the land was held under direct management by the Collector or in farm by any other person, under section 73, after either an annulment of assessment or a refusal to be liable therefor.

Effect of sale on incumbrances.

76. (*1*) Land sold under the last foregoing section shall be sold free of all incumbrances; and all grants and contracts previously made by any person other than the purchaser in respect of the land shall become void as against the purchaser at the sale.

(*2*) Nothing in sub-section (*1*) shall affect—

(*a*) a tenant's right of occupancy, unless the right was created by the defaulter himself, or

(*b*) any lease at a fair rent, temporary or perpetual, for the erection of a dwelling-house or manufactory, or for a mine, garden, tank, canal, place of worship or burial-ground, so long as the land continues to be used for the purpose specified in the lease, or

(*c*) any incumbrance, grant, contract or right of occupancy specially saved by order of the Financial Commissioner and proclaimed as hereinafter provided.

Proceedings against other immoveable property of defaulter.

77. (*1*) If the arrear cannot be recovered by any of the processes hereinbefore provided, or if the Financial Commissioner considers the enforcement of any of those processes to be inexpedient, the Collector may, where the defaulter owns any other estate or holding, or any other immoveable property, proceed under the provisions of this Act against that property as if it were the land in respect of which the arrear is due:

Provided that no interests save those of the defaulter alone shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of his interests being proceeded against.

(*2*) When the Collector determines to proceed under this section against immoveable property other than the land in respect of which the arrear is due, he shall issue a proclamation prohibiting the transfer or charging of the property.

(*3*) The Collector may at any time by order in writing withdraw the proclamation, and it shall be deemed to be withdrawn when either the arrear has been paid or the interests of the defaulter in the property have been sold for the recovery of the arrear.

(*4*) Any private alienation of the property, or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof shall be void.

(*5*) In proceeding against property under this section the Collector shall follow, as nearly as the nature of the property will admit, the procedure prescribed for the enforcement of process against land on which an arrear of land-revenue is due.

Remedies open to person denying his liability for an arrear.

78. (*1*) Notwithstanding anything in section 66, when proceedings are taken under this Act for the recovery of an arrear, the person against whom the proceedings are taken may, if he denies his liability for the arrear or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit in a Civil Court for the recovery of the amount so paid.

(*2*) A suit under sub-section (*1*) must be instituted in a Court having jurisdiction in the place where the office of the Collector of the district in which the arrear or some part thereof accrued is situate.

Procedure in Sales.

Proclamation of sale.

79. (*1*) On the receipt of the sanction of the Financial Commissioner to the sale of any immoveable property, the Collector shall issue a proclamation of the intended sale, specifying—

(*a*) the date, time and place of the sale;

(*b*) the property to be sold, and, if it is an estate or holding, the land-revenue assessed thereon or payable in respect thereof;

(*c*) if the property is to be sold for the recovery of an arrear due in respect thereof, the incumbrances, grants, contracts and rights of occupancy, if any, specially saved by order of the Financial Commissioner under section 76, sub-section (*2*), clause (*c*);

(*d*) if the property is to be sold otherwise than for the recovery of an arrear due in respect thereof, any incumbrance, grant or contract to which the property is known to be liable; and

(*e*) the amount for the recovery of which the sale is ordered.

(*2*) The proclamation shall also state that any person intending to claim a right of pre-emption must, on pain of forfeiting the right, give notice of his intention to the Collector on an office-day before that fixed for the sale.

(*3*) The place of sale specified under clause (*a*) of sub-section (*1*) must be either the office of the

The Punjab Land-revenue Act, 1887.
(Chapter VI.—Collection of Land-revenue.—Sections 80-94.)

Collector or some place appointed by the Collector in this behalf and situate in or near the property to be sold.

Indemnity to Revenue-officer with respect to contents of proclamation.

80. A Revenue-officer shall not be answerable for any error, mis-statement or omission in any proclamation under the last foregoing section, unless the same has been committed or made dishonestly.

Publication of proclamation.

81. (*1*) A copy of the proclamation shall be served on the defaulter and be posted in a conspicuous part of the office of the Tahsildár of the tahsil in which the property to be sold is situate.

(*2*) After a copy of the proclamation has been served on the defaulter and posted in the office of the Tahsildár, a copy thereof shall be posted in the office of the Collector.

(*3*) The proclamation shall be further published in manner prescribed in section 22 and in such other manner as the Collector thinks expedient.

Time and conduct of sale.

82. (*1*) The sale shall not take place on a Sunday or other holiday, or till after the expiration of at least thirty days from the date on which the copy of the proclamation was posted in the office of the Collector.

(*2*) The sale shall be by public auction, and shall be conducted either by the Collector in person or by a Revenue-officer specially appointed by him in this behalf.

Power to postpone sale.

83. The Collector may from time to time postpone the sale.

Stay of sale.

84. If at any time before the bidding at the auction is completed the defaulter pays the arrear in respect of which the property has been proclaimed for sale, together with the costs incurred for the recovery thereof, to the officer conducting the sale, or proves to the satisfaction of that officer that he has already paid the same either at the place and in the manner prescribed under section 63 or into the Government treasury, the sale shall be stayed.

Payment of deposit by highest bidder.

85. When the highest bid at the auction has been ascertained, the person who made that bid shall, on the requisition of the officer conducting the sale, pay to that officer a deposit of twenty-five per centum on the amount of his bid, and shall, on payment thereof, be declared to be the purchaser subject to the provisions of this Chapter with respect to the exercise of any right of pre-emption.

Consequences of failure to pay deposit.

86. If the person who made the highest bid fails to pay the deposit as required by the last foregoing section, the property shall forthwith be put up again and sold, and all expenses attending the first sale, and the deficiency of price, if any, which may happen on the re-sale, may be recovered from him by the Collector as if the same were an arrear of land-revenue.

Exercise of right of pre-emption.

87. (*1*) At any time before the close of the day on which the sale takes place any person who has given notice of his intention to claim a right of pre-emption under section 79, sub-section (*2*), may, on payment to the officer conducting the sale of a deposit of twenty-five per centum on the highest bid made at the sale, claim to take the property at that bid.

(*2*) If the right is not disputed, he shall be declared to be the purchaser.

(*3*) If the right is disputed, the Collector shall inquire into and decide the dispute and declare the purchaser, and his decision and declaration shall be final.

Time for payment in full.

88. The full amount of the purchase-money shall be paid by the purchaser before the close of the fifteenth day from that on which the purchaser was declared.

Procedure in default of payment.

89. In default of payment of the full amount of the purchase-money within the period mentioned in the last foregoing section, the deposit referred to in section 85 or section 87, as the case may be, shall, after defraying the expenses of the sale, be forfeited to the Government and may, if the Collector, with the previous sanction of the Commissioner, so directs, be applied in reduction of the arrear, and the property shall be re-sold, and the defaulting purchaser shall have no claim to the property or to any part of the sum for which it may subsequently be sold.

Report of sale to Commissioner.

90. Every sale of immoveable property under this Chapter shall be reported by the Collector to the Commissioner.

Application to set aside sale.

91. (*1*) At any time within thirty days from the date of the sale, application may be made to the Commissioner to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it;

(*2*) But a sale shall not be set aside on that ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake.

Order confirming or setting aside sale.

92. (*1*) After the expiration of thirty days from the date of the sale, if such application as is mentioned in the last foregoing section has not been made, or if such application has been made and rejected, the Commissioner shall make an order confirming the sale, and, if such application has been made and allowed, the Commissioner shall make an order setting aside the sale.

(*2*) An order made under this section shall be final.

Refund of purchase-money on setting aside of sale.

93. Whenever the sale of any property is set aside, the purchaser shall be entitled to receive back his purchase-money.

Proclamation after postponement or on re-sale.

94. A sale made after a postponement under section 83, and a re-sale consequent on a purchaser's default under section 89 or on the setting aside of a sale under section 92, shall be made after the issue of a fresh proclamation in the manner hereinbefore prescribed for the sale.

The Punjab Land-revenue Act, 1887.
(Chapter VI.—Collection of Land-revenue.—Sections 95-96.
Chapter VII.—Recovery of other Demands by Revenue-officers.—Sections 97-99.
Chapter VIII.—Surveys and Boundaries.—Sections 100-101.)

On confirmation of sale, possession and certificate to be granted to purchaser.

95. (*1*) After a sale has been confirmed in manner aforesaid, the Collector shall put the person declared to be the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased that property.

(*2*) The certificate shall state whether or not the property was sold for the recovery of an arrear due in respect thereof, and, if it was so sold, shall set forth the incumbrances, grants, contracts and rights of occupancy, if any, specified in the proclamation of the sale as specially saved by order of the Financial Commissioner under section 76, sub-section (*2*), clause (*c*).

(*3*) The certificate shall be deemed to be a valid transfer of the property but need not be registered as a conveyance.

(*4*) Any suit brought in any Court against the certified purchaser on the ground that the purchase was made on behalf of a person other than the certified purchaser shall be dismissed with costs.

(*5*) The certified purchaser of any immoveable property shall be entitled to all rents and profits falling due in respect of the property after the date of the confirmation of the sale and be liable for all instalments of land-revenue and rates and cesses falling due in respect thereof after that date.

Proceeds of sale.

96. (*1*) When a sale of immoveable property under this Chapter has been confirmed, the proceeds of the sale shall be applied in the first place to the payment of any arrears, including costs incurred for the recovery thereof, due to the Government from the defaulter at the date of the confirmation of the sale, whether the arrears are of land-revenue, or of sums recoverable as arrears of land-revenue, and the surplus, if any, shall be paid to the person whose property has been sold, or, if the property sold was owned by more than one person, then to the owners either collectively or according to the amount of their recorded interests, as the Collector thinks fit.

(*2*) The surplus shall not, except under an order of a Court, be paid to any creditor of a person whose property has been sold.

(*3*) If the proceeds of the sale fall short of such arrears as are referred to in sub-section (*1*), the balance remaining due from the defaulter may be recovered from him by further proceedings under this Chapter or by any other means authorised by law.

CHAPTER VII.

RECOVERY OF OTHER DEMANDS BY REVENUE-OFFICERS.

Recovery of certain arrears through Revenue-officer instead of by suit.

97. When a village-officer required by rules under section 28 to collect any land-revenue or sum recoverable as an arrear of land-revenue satisfies a Revenue-officer that the revenue or sum has fallen due and has not been paid to him, the Revenue-officer may, subject to any rules which the Financial Commissioner may make in this behalf, recover it as if it were an arrear of land-revenue.

Other sums recoverable as arrears of land-revenue.

98. In addition to any sums recoverable as arrears of land-revenue under this Act or any other enactment for the time being in force, the following sums may be so recovered, namely :—

(*a*) fees, fines, costs and other charges, including the village-officers' cess, payable under this Act;

(*b*) revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42, in cases in which the revenue so due has not been included in the assessment of an estate;

(*c*) fees payable to district boards or local boards under section 33 of the Punjab District Boards Act, 1883, for the use of or benefits derived from such works as are referred to in section 20, clauses (*i*) and (*j*), of that Act ; XX of 1883.

(*d*) sums leviable by or under the authority of the Government as water-rates, or on account of the maintenance or management of canals, embankments or other irrigation-works, not being sums recoverable as arrears of land-revenue under any enactment for the time being in force ; and

(*e*) sums payable to the Government by a person who is surety for the payment of any of the foregoing sums or of any other sum recoverable as an arrear of land-revenue.

Application of Chapter VI to sums recoverable under this Chapter.

99. (*1*) The provisions of Chapter VI shall, with respect to any sum mentioned or referred to in this Chapter, apply, so far as they can be made applicable, as if the sum were an arrear of land-revenue and the person from whom, either as principal or as surety, it is due were a defaulter in respect of such an arrear.

(*2*) Unless any such sum is declared by any enactment for the time being in force to be recoverable as if it were an arrear of land-revenue due in respect of the land charged therewith, the provisions of section 77 shall apply under sub-section (*1*) to the recovery thereof.

CHAPTER VIII.

SURVEYS AND BOUNDARIES.

Power of Financial Commissioner to make rules for demarcation of boundaries and erection of survey-marks.

100. (*1*) The Financial Commissioner may make rules as to the manner in which the boundaries of all or any estates in any local area are to be demarcated and as to the survey-marks to be erected within those estates.

(*2*) Rules under this section may prescribe, among other matters, the form of survey-marks and the material to be used in their construction.

Power of Revenue-officers to define boundaries.

101. (*1*) A Revenue-officer may, for the purpose of framing any record or making any assessment under this Act, or on the application of any person interested, define the

The Punjab Land-revenue Act, 1887.
(Chapter VIII.—Surveys and Boundaries.—Sections 102-109. Chapter IX.—Partition.—Sections 110-111.)

limits of any estate, or of any holding, field or other portion of an estate, and may, for the purpose of indicating those limits, require survey-marks to be erected or repaired.

(*2*) In defining the limits of any land under sub-section (*1*), the Revenue-officer may cause survey-marks to be erected on any boundary already determined by, or by order of, any Court, Revenue-officer or Forest-settlement-officer, or restore any survey-mark already set up by, or by order of, any Court or any such officer.

Cost of erection and repair of survey-marks.

102. Subject to any rules which the Financial Commissioner may make in this behalf, survey-marks shall be erected and kept in repair by or at the cost of the persons interested in the land for the indication of the limits of which they are required :

Provided that the Local Government may in any case direct that the cost of erection shall be borne by the Government or be paid out of the proceeds of the village-officers' cess.

Recovery of cost incurred by the Government.

103. (*1*) If the persons interested in the land fail to erect or repair a survey-mark within thirty days from the date of their being required by a Revenue-officer to do so, the Revenue-officer may cause it to be erected or repaired.

(*2*) Where the Revenue-officer causes a survey-mark to be erected or repaired, he shall, subject to any rules or direction under the last foregoing section, apportion the cost among the persons interested in the land in such manner as he deems just, and certify the same to the Collector.

(*3*) The Collector may recover the cost as if it were an arrear of land-revenue.

Power of Revenue-officers to enter on land for purposes of survey and demarcation.

104. Any Revenue-officer, and any person acting under the orders of a Revenue-officer, may, in the discharge of any duty under this Act, enter upon and survey land and erect survey-marks thereon and demarcate the boundaries thereof, and do all other acts necessary for the proper performance of that duty.

Surveys for purpose of preparation of records.

105. (*1*) When any land is being surveyed in pursuance of rules under section 46, clause (*c*), any Revenue-officer directing the survey may, by notice or proclamation, require all persons having rights or interests in the land to indicate, within a specified time, by temporary marks of a kind to be described in the notice or proclamation, the limits of those rights or interests.

(*2*) If a person to whom the notice or proclamation is addressed fails to comply with the requisition, he shall be liable at the discretion of the Revenue-officer to fine which may extend to ten rupees.

Provision of flagholders and chainmen for those surveys.

106. (*1*) For the purposes of the survey of any land in pursuance of rules under section 46, clause (*c*), the landowners shall be bound to provide fit persons to act as flagholders and chainmen.

(*2*) If the landowners fail to provide such persons or to provide them in sufficient number, such other persons as a Revenue-officer considers necessary may be employed and the cost of employing them recovered from the landowners as if it were an arrear of land-revenue.

Professional surveys.

107. (*1*) If it is necessary to make a survey by other agency than that of Revenue-officers or village-officers, the Local Government may publish a notification stating—

(*a*) the local area to be surveyed and the nature of the survey ;

(*b*) the names or official designations of the officers by whom the survey is to be made ; and

(*c*) the kind of survey-marks to be erected by those officers.

(*2*) From the date of the notification the officers specified therein, and the persons acting under their orders, shall have for the purposes of the survey the powers conferred on Revenue-officers by section 104.

Penalty for destruction, injury or removal of survey-marks.

108. (*1*) If any person wilfully destroys or injures or without lawful authority removes a survey-mark lawfully erected, he may be ordered by a Revenue-officer to pay such fine not exceeding fifty rupees for each mark so destroyed, injured or removed as may, in the opinion of the Revenue-officer, be necessary to defray the expense of restoring the same and of rewarding the person, if any, who gave information of the destruction, injury or removal.

(*2*) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code. XLV of 1

Report of destruction or removal of or injury to survey-marks.

109. Every village-officer of an estate shall be legally bound to furnish a Revenue-officer with information respecting the destruction or removal of, or any injury done to, any survey-mark lawfully erected in the estate.

CHAPTER IX.

PARTITION.

Effect of partitions of estates and tenancies on joint liability for revenue and rent.

110. (*1*) A partition of land, either under this Chapter or otherwise, shall not, without the express consent of the Financial Commissioner, affect the joint liability of the land or of the landowners thereof for the revenue payable in respect of the land, or operate to create a new estate, and, if any conditions are attached to that consent, those conditions shall be binding on the parties to the partition.

(*2*) A partition of a tenancy shall not, without the express consent of the landlord, affect the joint liability of the co-sharers therein for the payment of the rent thereof.

Application for partition.

111. Any joint owner of land, or any joint tenant of a tenancy in which a right of occupancy subsists, may apply to a Revenue-officer for partition of his share in the land or tenancy, as the case may be, if—

(*a*) at the date of the application the share is recorded under Chapter IV as belonging to him, or

(*b*) his right to the share has been established by a decree which is still subsisting at that date, or

The Punjab Land-revenue Act, 1887.
(Chapter IX.—Partition.—Sections 112-118.)

(c) a written acknowledgment of that right has been executed by all persons interested in the admission or denial thereof.

Restrictions and limitations on partition.

112. Notwithstanding anything in the last foregoing section—

(1) places of worship and burial-grounds held in common before partition shall continue to be so held after partition, unless the parties otherwise agree among themselves and record their agreement and file it with the Revenue-officer;

(2) partition of any of the following properties, namely :—

(a) any embankment, watercourse, well or tank, and any land on which the supply of water to any such work may depend,

(b) any grazing-ground, and

(c) any land which is occupied as the site of a town or village and is assessed to land-revenue,

may be refused if in the opinion of the Revenue-officer the partition of such property is likely to cause inconvenience to the co-sharers or other persons directly or indirectly interested therein or to diminish the utility thereof to those persons;

(3) the fact that a partition on the application of a joint owner of land would render necessary the severance into two or more parts of the land comprised in the tenancy of a tenant having a right of occupancy may, unless the tenant assents to the severance, be a sufficient reason for the disallowance of the partition in so far as it would affect that tenancy; and

(4) the fact that the landlord objects to the partition of a tenancy may be sufficient reason for the absolute disallowance of the partition thereof.

Notice of application for partition.

113. The Revenue-officer, on receiving the application under section 111, shall, if it is in order and not open to objection on the face of it, fix a day for the hearing thereof, and—

(a) cause notice of the application and of the day so fixed to be served on such of the recorded co-sharers as have not joined in the application, and, if the share of which partition is applied for is a share in a tenancy, on the landlord also; and

(b) if he thinks fit, cause the notice to be served on, or proclaimed for the information of, any other persons whom he may deem to be directly or indirectly interested in the application.

Addition of parties to application.

114. On the day fixed for the hearing, or on any day to which the hearing may be adjourned, the Revenue-officer shall ascertain whether any of the other co-sharers desire the partition of their shares also, and, if any of them so desire, he shall add them as applicants for partition.

Absolute disallowance of partition.

115. After examining such of the co-sharers and other persons as may be present on that day, the Revenue-officer may, if he is of opinion that there is good and sufficient cause why partition should be absolutely disallowed, refuse the application, recording the grounds of his refusal.

Procedure on admission of application.

116. If the Revenue-officer does not refuse the application under the last foregoing section, he shall ascertain the questions, if any, in dispute between any of the persons interested, distinguishing between—

(a) questions as to title in the property of which partition is sought; and

(b) questions as to the property to be divided, or the mode of making the partition.

Disposal of questions as to title in property to be divided.

117. (1) When there is a question as to title in any of the property of which partition is sought, the Revenue-officer may decline to grant the application for partition until the question has been determined by a competent Court, or he may himself proceed to determine the question as though he were such a Court.

(2) Where the Revenue-officer himself proceeds to determine the question, the following rules shall apply, namely :—

(a) If the question is one over which a Revenue Court has jurisdiction, the Revenue-officer shall proceed as a Revenue Court under the provisions of the Punjab Tenancy Act, 1887.

(b) If the question is one over which a Civil Court has jurisdiction, the procedure of the Revenue-officer shall be that applicable to the trial of an original suit by a Civil Court, and he shall record a judgment and decree containing the particulars required by the Code of Civil Procedure to be specified therein. XIV of 1882.

(c) An appeal shall lie from the decree of the Revenue-officer under clause (b) as though that decree were a decree of a District Judge in an original suit.

(d) Upon such an appeal being made, the Divisional Court or Chief Court, as the case may be, may issue an injunction to the Revenue-officer requiring him to stay proceedings pending the disposal of the appeal.

(e) From the appellate decree of a Divisional Court upon such an appeal a further appeal shall lie to the Chief Court if such a further appeal is allowed by the law for the time being in force.

Disposal of other questions.

118. (1) When there is a question as to the property to be divided, or the mode of making a partition, the Revenue-officer shall, after such inquiry as he deems necessary, record an order stating his decision on the question and his reasons for the decision.

(2) An appeal may be preferred to the Commissioner from an order under sub-section (1) within fifteen days from the date thereof, and, when such an appeal is preferred and the institution thereof has been certified to the Revenue-officer by the Commissioner, the Revenue-officer shall stay proceedings pending the disposal of the appeal.

The Punjab Land-revenue Act, 1887.
(Chapter IX.—Partition.—Sections 119-126. Chapter X.—Arbitration.—Sections 127-128.)

(3) If an applicant for partition is dissatisfied with an original or appellate order under this section, and applies for permission to withdraw from the proceedings in so far as they relate to the partition of his share, he shall be permitted to withdraw therefrom on such terms as the Revenue-officer thinks fit.

(4) When an applicant withdraws under the last foregoing sub-section, the Revenue-officer may, where the other applicants, if any, desire the continuance of the proceedings, continue them in so far as they relate to the partition of the shares of those other applicants.

Administration of property excluded from partition.

119. When any such property as is referred to in section 112, clause (2), is excluded from partition, the Revenue-officer may determine the extent and manner to and in which the co-sharers and other persons interested therein may make use thereof, and the proportion in which expenditure incurred thereon and profits derived therefrom, respectively, are to be borne by and divided among those persons or any of them.

Distribution of revenue and rent after partition.

120. (1) The amount of revenue to be paid in respect of each of the holdings into which land has been divided on a partition, and the amount of rent to be paid in respect of each of the portions into which a tenancy has been so divided, shall be determined by the Revenue-officer making the partition.

(2) The determination of the Revenue-officer as to the revenue to be paid in respect of each holding shall, where the estate in which the holding is situate is subject to a fixed assessment, be deemed to be an order under section 56, sub-section (1).

(3) Where new estates have been created at a partition and the land-revenue has been fraudulently or erroneously distributed among them, the Local Government may, within twelve years from the time of discovery of the fraud or error, order a new distribution of the land-revenue among the several estates, on an estimate of the assets of each estate at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

Instrument of partition.

121. When a partition is completed, the Revenue-officer shall cause an instrument of partition to be prepared, and the date on which the partition is to take effect to be recorded therein.

Delivery of possession of property allotted on partition.

122. An owner or tenant to whom any land or portion of a tenancy, as the case may be, is allotted in proceedings for partition shall be entitled to possession thereof as against the other parties to the proceedings and their legal representatives, and a Revenue-officer shall, on application made to him for the purpose by any such owner or tenant at any time within three years from the date recorded in the instrument of partition under the last foregoing section, give effect to that instrument so far as it concerns the applicant as if it were a decree for immoveable property.

Affirmation of partitions privately effected.

123. (1) In any case in which a partition has been made without the intervention of a Revenue-officer, any party thereto may apply to a Revenue-officer for an order affirming the partition.

(2) On receiving the application, the Revenue-officer shall inquire into the case, and, if he finds that the partition has in fact been made, he may make an order affirming it and proceed under sections 119, 120, 121 and 122, or any of those sections, as circumstances may require, in the same manner as if the partition had been made on an application to himself under this Chapter.

Power to make rules as to costs of partitions.

124. The Financial Commissioner may make rules for determining the costs of partitions under this Chapter and the mode in which such costs are to be apportioned.

Re-distribution of land according to custom.

125. When by established custom any land in an estate is subject to periodical re-distribution a Revenue-officer may, on the application of any of the landowners, enforce the re-distribution according to the custom, and for this purpose may exercise all or any of the powers of a Revenue-officer in proceedings for partition.

Officers who may be empowered to act under this Chapter.

126. The Revenue officer by whom proceedings may be taken under this Chapter shall be a Revenue-officer of a class not below that of Assistant Collector of the first grade.

CHAPTER X.

ARBITRATION.

Power to refer to arbitration.

127. (1) Any Revenue-officer may, with the consent of the parties, refer to arbitration any dispute arising before him in any matter under this Act.

(2) A Collector or an Assistant Collector of the first grade may, without the consent of the parties, refer to arbitration any dispute before him with respect to—

(a) any matter of which an entry is to be made in any record or register under Chapter IV;

(b) any matter relating to the distribution of an assessment under section 56;

(c) the limits of any estate or of any holding, field or other portion of an estate; or

(d) the property to be divided at a partition or the mode of making a partition.

Order of reference and contents thereof.

128. (1) In referring a dispute to arbitration a Revenue-officer shall make an order of reference, and specify therein the precise matter submitted to arbitration, the number of arbitrators which each party to the dispute is to nominate, the period within which arbitrators are to be nominated, and the period within which the award is to be delivered.

(2) The number of arbitrators which each party may nominate must be the same and must not exceed two.

(3) If from any cause arbitrators are not nominated, or an award is not delivered, within the period fixed therefor in the order of reference, the Revenue-officer may from time to time enlarge that period, or may cancel the order of reference.

The Punjab Land-revenue Act, 1887.
(Chapter X.—Arbitration.—Sections 129-135. Chapter XI.—Special Jurisdiction with respect to Land.—Sections 136-137.)

Nomination of arbitrators.

129. (*1*) When an order of reference has been made, the parties may each nominate the number of arbitrators specified in the order, and the Revenue-officer shall nominate one other arbitrator.

(*2*) The Revenue-officer may, for reasons to be recorded by him, make an order disallowing any nomination made by either party and requiring the party to make another nomination within a time to be specified in the order.

(*3*) An order under the last foregoing sub-section shall be final.

Substitution of arbitrators by parties.

130. If an arbitrator nominated by a party dies, desires to be discharged or refuses or becomes incapable to act, the party may nominate another person in his stead.

Nomination and substitution of arbitrators by Revenue-officers.

131. In any of the following cases, namely :—

(*a*) if either of the parties fails to nominate an arbitrator under sub-section (*1*) of section 129 within the period fixed in the order of reference, or

(*b*) if the nomination of an arbitrator has been disallowed under sub-section (*2*) of section 129, and another arbitrator is not nominated within the time specified in the order under that sub-section or, having been so nominated, his nomination is also disallowed, or

(*c*) if a party entitled to nominate an arbitrator in the place of another arbitrator under section 130 fails to nominate him within one week from the date of the communication to him of a notice requiring him to make the nomination, or

(*d*) if an arbitrator nominated by the Revenue-officer dies, desires to be discharged, or refuses or becomes incapable to act,

the Revenue-officer may nominate a person as arbitrator.

Process for appearance before arbitrators.

132. (*1*) The Revenue-officer shall, on the application of the arbitrators, issue the same processes to the parties and witnesses whom the arbitrators desire to examine as he may issue in any proceeding under this Act before himself.

(*2*) Any such party or witness shall be bound to appear before the arbitrators in obedience to a process issued under sub-section (*1*), either in person or by agent, as the arbitrators may require.

(*3*) The person attending in obedience to the process shall be bound to state the truth upon any matter respecting which he is examined or makes statements, and to produce such documents and other things relating to any such matter as may be specified in the process.

Award of arbitrators and presentation thereof.

133. (*1*) The arbitrators shall make an award in writing under their hands concerning the matters referred to them for arbitration, and state therein their reasons therefor, and any arbitrator dissenting from the award made by a majority of the arbitrators shall state the grounds of his dissent.

(*2*) The arbitrators shall present the award to the Revenue-officer in person unless that officer permits them to present it by agent.

Procedure on presentation of award.

134. (*1*) When the award has been received, the Revenue-officer shall, if the parties are present, consider forthwith any objections which they may have to make thereto, and, if they are not present, fix a date for the consideration thereof.

(*2*) Where a date has been fixed for the consideration of an award, the Revenue-officer shall on that date, or on any subsequent date to which an adjournment may be made, hear any objections which the parties may have to make to the award.

(*3*) The Revenue-officer may also, if he thinks fit, question the arbitrators as to the grounds of their award.

Effect of award.

135. (*1*) The Revenue-officer may accept, modify or reject the award, recording his reasons for doing so in his decision respecting the dispute which was referred to arbitration.

(*2*) An appeal shall lie from the decision as if arbitrators had not been appointed.

CHAPTER XI.

SPECIAL JURISDICTION WITH RESPECT TO LAND.

Power to invest officers making records-of-rights or general re-assessments with powers of Civil Courts.

136. (*1*) The Local Government may, by order published in the official Gazette, invest any Revenue-officer making or specially revising records-of-rights in any local area in pursuance of a notification under section 32 or making a general re-assessment of land-revenue in any local area in pursuance of a notification under section 49, or any Revenue-officer to whose control that officer is subject, with all or any of the powers of any Court constituted under the Punjab Courts Act, 1884, for the purpose of trying all or any specified classes of suits or appeals relating to land arising in the local area. XVIII of 1884.

(*2*) The Local Government may cancel an order under sub-section (*1*) wholly or in part.

(*3*) While an order, or any part of an order under that sub-section continues in force, the powers conferred thereby shall be exercised by the officer invested therewith and not otherwise.

(*4*) Any cases pending before that officer under the order or a subsisting part of the order at the time of the cancellation thereof may be disposed of by him as if the order or that part of it continued in force, unless the Local Government directs, as it is hereby empowered to do, that those cases shall be transferred for disposal to the Courts by which they would have been disposed of if the order had not been published.

Control over such officers and appeals from and revision of their decrees and orders.

137. (*1*) The Local Government may by notification direct that the provisions of this Act with respect to the superintendence and control over Revenue-officers shall, subject to any modification of those provisions which the Local Government thinks fit, apply to any Revenue-officer, except the Financial Commissioner, who has been invested with the powers of a Civil Court of any of the classes specified in clauses (*a*), (*b*), (*c*) and (*d*) of section 17 of the Punjab Courts Act, 1884, and that appeals shall lie from his decrees and orders XVIII 1884.

The Punjab Land-revenue Act, 1887.
(Chapter XII.—Supplemental Provisions.—Sections 138-145.)

to, and his decrees and orders be subject to revision by, a Revenue-officer invested under the last foregoing section with the powers of a Court which would be competent under the Punjab Courts Act, 1884, to hear appeals from, or revise, such decrees and orders if they had been made by a Court with the powers of which the Revenue-officer who made them has been invested.

(2) In the absence of any such notification, a Revenue-officer invested under the last foregoing section with the powers of any such Civil Court as aforesaid shall, with respect to the exercise of those powers, be deemed to be such a Civil Court for the purposes of the Punjab Courts Act, 1884.

CHAPTER XII.

SUPPLEMENTAL PROVISIONS.

Revenue Deposits.

Power to deposit certain sums other than rent.

138. (1) In either of the following cases, namely :—

(a) when a headman or other landowner, or an assignee of land-revenue, to whom any sum other than rent is payable on account of a liability under this Act refuses to receive the sum from, or to grant a receipt therefor to, the person by whom it is payable,

(b) when the person by whom any such sum is payable is in doubt as to the headman or other landowner, or the assignee of land-revenue, entitled to receive it,

that person may apply to a Revenue-officer for leave to deposit the sum in his office, and the Revenue-officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application and if the applicant pays the fee, if any, which may be chargeable on any notice to be issued of the receipt thereof.

(2) When a deposit has been so received, the liability of the depositor to the headman or other landowner, or the assignee of land-revenue, for the amount thereof shall be discharged.

Procedure in case of deposit on account of a payment due to Government.

139. If the deposit purports to be made on account of any payment due to the Government, it may be credited accordingly.

Procedure in case of other deposits.

140. (1) A Revenue-officer receiving a deposit purporting to be made on any other account shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(2) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section, but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer.

Execution of Orders of Civil and Criminal Courts by Revenue-officers.

Orders of Civil and Criminal Courts for execution of processes against land or the produce thereof to be addressed to a Revenue-officer.

141. Orders issued by any Civil or Criminal Court for the attachment, sale or delivery of any land or interest in land, or for the attachment or sale of the produce of any land, shall be addressed to the Collector or such Revenue-officer as the Collector may appoint in this behalf, and be executed by the Collector or that officer in accordance with the provisions of the law applicable to the Court issuing the orders and with any rules consistent therewith made by the Financial Commissioner with the concurrence of the Chief Court and the previous sanction of the Local Government.

Attachment of assigned land-revenue.

142. (1) Notwithstanding anything in any other enactment for the time being in force, an order issued by any Court for the attachment of assigned land-revenue shall require the person by whom the revenue is payable to pay it to the Collector, and the Collector to hold it subject to the further orders of the Court.

(2) A payment to the Collector under sub-section (1) shall be an effectual discharge to the person making it.

Preservation of attached Produce.

Preservation of attached produce.

143. (1) The attachment of the produce of any land in pursuance of an order of any Court or other authority shall not prevent the person to whom the produce belongs from reaping, gathering or storing it or doing any other act necessary for its preservation.

(2) The attaching officer shall do or cause to be done all acts necessary for the preservation of the produce if the person to whom it belongs fails to do so.

(3) When sale of produce follows on its attachment, the purchaser shall be entitled, by himself or by any person appointed by him in this behalf, to enter on the place where the produce is and do all that is necessary for the purpose of preserving and removing it.

Division of Produce.

Division of produce.

144. In either of the following cases, namely :—

(a) where land-revenue is paid by division or appraisement of the produce,

(b) where a superior and an inferior landowner, or two or more shareholders in a holding or tenancy, are jointly interested in any produce, and either or any of the landowners or tenants, as the case may be, desires the assistance of a Revenue-officer for the purpose of dividing or appraising the produce,

the provisions of the Punjab Tenancy Act, 1887, with respect to the division or appraisement of produce shall apply so far as they can be made applicable. XVI of 18[87]

Miscellaneous.

Village-cesses.

145. (1) At any of the following times, namely :—

(a) when a record-of-rights is being made or specially revised for an estate,

The Punjab Land-Revenue Act, 1887.
(Chapter XII.—Supplemental Provisions.—Sections 146-154.)

(*b*) when the local area in which an estate is situate is being generally re-assessed and before the assessment has been confirmed,

(*c*) at any other time on an order made with respect to any estate by the Local Government with the previous sanction of the Governor-General in Council,

a Revenue-officer shall prepare a list of village-cesses, if any, levied in the estate which have been generally or specially approved by the Local Government, or the title to which has before the passing of this Act been judicially established.

(*2*) When a list has been prepared for an estate under sub-section (*1*), a village-cess not comprised therein shall not be recoverable by suit in any Court.

(*3*) The Local Government may impose on the collection of any village-cess comprised in the list such conditions as to police or other establishments connected with the village, market or fair in or on account of which the cess is levied, as it thinks fit.

(*4*) The Governor General in Council may, on a reference from the Local Government, declare whether any cess, contribution or due levied in an estate is or is not a village-cess.

(*5*) A declaration of the Governor-General in Council under the last foregoing sub-section shall be conclusive, and shall not be liable to be questioned in any Court.

Superior landowners' dues.

146. Where a superior landowner is entitled to receive in respect of any land from an inferior landowner dues in kind or in cash of fluctuating quantity or amount, the Collector may—

(*a*) on the application of both landowners, or,

(*b*) with the previous sanction of the Local Government, on the application of either of them,

commute those dues into a fixed percentage of the land-revenue payable by the inferior landowner in respect of the land.

Substitution of service for payment of land-revenue.

147. (*1*) The Local Government may, with the previous sanction of the Governor-General in Council, authorize the remission of land-revenue in whole or in part in consideration of the person liable therefor undertaking to render in lieu thereof such public service as may be specified in an agreement to be approved by the Local Government and executed by that person.

(*2*) The Local Government may, with the like sanction, cancel any remission authorized, and agreement made, under sub-section (*1*).

(*3*) If a landowner bound by an agreement under that sub-section to render public service in lieu of paying land-revenue fails to render the service to the satisfaction of the Collector, the Collector may determine the portion of the land-revenue remitted which is represented by the service in respect of which the landowner is in default, and, with the previous sanction of the Financial Commissioner, recover that portion as if it were an arrear of land-revenue due in respect of the land for the land-revenue whereof the service was substituted.

Recovery of cost of assessing assigned land-revenue.

148. (*1*) When land of which the land-revenue has been assigned in whole or in part is re-assessed, the assignee shall be liable to pay such a share of the cost of making the re-assessment as the Financial Commissioner may determine to be just.

(*2*) That share may be recovered by the Collector by deduction of the amount thereof from the land-revenue due to the assignee.

Penalty for failure to attend within limits of estate in obedience to order of Revenue-officer.

149. If a person required by a summons, notice, order or proclamation proceeding from a Revenue-officer to attend at a certain time and place within the limits of the estate in which he ordinarily resides, or in which he holds or cultivates land, fails to comply with the requisition, he shall be liable at the discretion of the Revenue-officer to fine which may extend to fifty rupees.

Prevention of encroachment on common lands.

150. (*1*) Where land which has been reserved for the common purposes of the co-sharers therein has been encroached on by any co-sharer, a Revenue-officer may, on the application of any other co-sharer, eject the encroaching co-sharer from the land and, by order proclaimed in manner mentioned in section 22, forbid repetition of the encroachment.

(*2*) The proceedings of the Revenue-officer under sub-section (*1*) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

Papers kept by village-officers to be deemed public documents.

151. (*1*) Any record or paper which a village-officer is required by law or by any rule under this Act to prepare or keep shall be deemed to be the property of the Government.

(*2*) A village-officer shall, with respect to any such record or paper in his custody, be deemed for the purposes of the Indian Evidence Act, 1872, to be a public officer having the custody of a public document which any person has a right to inspect. I of 1872.

Costs.

152. (*1*) A Revenue-officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit;

(*2*) But if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

Computation of periods limited for appeals and applications for review.

153. In the computation of the period for an appeal from, or an application for the review of, an order under this Act the limitation therefor shall be governed by the Indian Limitation Act, 1877. XV of 1877.

Restriction on Revenue-officers bidding at auctions or trading.

154. (*1*) A Revenue-officer, or a person employed in a revenue-office, shall not—

(*a*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which any Revenue-officer or Revenue Court in the district in which he is employed has ordered to be sold, or,

The Punjab Land-revenue Act, 1887.
(Chapter XII.—Supplemental Provisions.—Sections 155-158.)

(*b*) in contravention of any rules made by the Local Government in this behalf, engage in trade in that district.

(*2*) Nothing in sub-section (*1*) shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1882, or other law.

of 1882.

Power to make rules.

155. (*1*) The Financial Commissioner may, in addition to the other rules which may be made by him under this Act, make rules consistent with this Act and any other enactment for the time being in force—

(*a*) fixing the number and amount of the instalments, and the times and places and the manner, by, at and in which any sum other than rent or land-revenue which is payable under this Act or of which a record has been made thereunder is to be paid;

(*b*) fixing the dates on which profits are to be divisible by headmen or other persons by whom they are realized on behalf of co-sharers;

(*c*) prescribing the fees to be charged for the service and execution of processes issued by Revenue-officers and Revenue Courts, the mode in which those fees are to be collected, the number of persons to be employed in the service and execution of those processes, and the remuneration and duties of those persons;

(*d*) regulating the procedure in cases where persons are entitled to inspect records of revenue-offices, or records or papers in the custody of village-officers, or to obtain copies of the same, and prescribing the fees payable for searches and copies;

(*e*) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in revenue-offices or submitted to any authority;

(*f*) declaring what shall be the language of any of those offices, and determining in what cases persons practising in those offices shall be permitted to address the presiding officers thereof in English; and

(*g*) generally for carrying out the purposes of this Act.

(*2*) Until rules are made under clauses (*a*) and (*b*) of sub-section (*1*) the sums therein referred to shall be payable by the instalments, at the times and places, and in the manner by, at and in which they are now payable.

(*3*) Rules made by the Financial Commissioner under this or any other section of this Act shall not take effect until they have been sanctioned by the Local Government, and rules under clause (*c*) of sub-section (*1*) shall not take effect until they have also been confirmed by the Governor-General in Council.

Rules to be made after previous publication.

156. The power to make any rules under this Act is subject to the control of the Governor-General in Council, and to the condition of the rules being made after previous publication.

Powers exerciseable by the Financial Commissioner from time to time.

157. All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

Exclusion of Jurisdiction of Civil Courts.

Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue-officers.

158. Except as otherwise provided by this Act—

(*1*) a Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-officer is empowered by this Act to dispose of, or take cognizance of the manner in which the Local Government or any Revenue-officer exercises any powers vested in it or him by or under this Act; and in particular—

(*2*) a Civil Court shall not exercise jurisdiction over any of the following matters, namely:—

(i) any question as to the limits of any land which has been defined by a Revenue-officer as land to which this Act does or does not apply;

(ii) any claim to compel the performance of any duties imposed by this Act or any other enactment for the time being in force on any Revenue-officer, as such;

(iii) any claim to the office of kánúngo, zaildár, inámdár or village-officer, or in respect of any injury caused by exclusion from such office, or to compel the performance of the duties or a division of the emoluments thereof;

(iv) any notification directing the making or revision of a record-of-rights;

(v) the framing of a record-of-rights or annual record, or the preparation, signing or attestation of any of the documents included in such a record;

(vi) the correction of any entry in a record-of-rights, annual record or register of mutations;

(vii) any notification of the undertaking of the general re-assessment of a district or tahsil having been sanctioned by the Governor-General in Council;

(viii) the claim of any person to be liable for an assessment of land-revenue or of any other revenue assessed under this Act;

(ix) the amount of land-revenue to be assessed on any estate or to be paid in respect of any holding under this Act;

(x) the amount of, or the liability of any person to pay, any other revenue to be assessed under this Act, or any cess, charge or rate to be assessed on an estate or holding under this Act or any other enactment for the time being in force;

(xi) any claim relating to the allowance to be received by a landowner who has given notice of his refusal to be liable for an assessment, or any claim connected with, or arising out of, any proceedings taken in consequence of the refusal of any person to be liable for an assessment under this Act;

(xii) the formation of an estate out of waste-land;

(xiii) any claim to hold free of revenue any land, mills, fisheries or natural products of land or water;

The Punjab Land-revenue Act, 1887.
(Chapter XII.—Supplemental Provisions.—Section 158.)
(The Schedule.—Enactments repealed.)

(xiv) any claim connected with, or arising out of, the collection by the Government, or the enforcement by the Government of any process for the recovery, of land-revenue or any sum recoverable as an arrear of land-revenue;

(xv) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of land-revenue or any sum recoverable as an arrear of land-revenue;

(xvi) the amount of, or the liability of any person to pay, any fees, fines, costs or other charges imposed under this Act;

(xvii) any claim for partition of an estate, holding or tenancy, or any question connected with, or arising out of, proceedings for partition, not being a question as to title in any of the property of which partition is sought;

(xviii) any question as to the allotment of land on the partition of an estate, holding or tenancy, or as to the distribution of land subject by established custom to periodical re-distribution, or as to the distribution of land-revenue on the partition of an estate or holding or on a periodical re-distribution of land, or as to the distribution of rent on the partition of a tenancy;

(xix) any claim to set aside or disturb a division or appraisement of produce confirmed or varied by a Revenue-officer under this Act;

(xx) any question relating to the preparation of a list of village-cesses or the imposition by the Local Government of conditions on the collection of such cesses;

(xxi) any proceeding under this Act for the commutation of the dues of a superior landowner;

(xxii) any claim arising out of the enforcement of an agreement to render public service in lieu of paying land-revenue; or

(xxiii) any claim arising out of the liability of an assignee of land-revenue to pay a share of the cost of collecting or re-assessing such revenue, or arising out of the liability of an assignee to pay out of assigned land-revenue, or of a person who would be liable for land-revenue if it had not been released, compounded for or redeemed to pay on the land-revenue for which he would but for such release, composition or redemption be liable, such a percentage for the remuneration of a zaildár, inámdár or village-officer as may be prescribed by rules for the time being in force under this Act.

THE SCHEDULE.

(See section 2.)

ENACTMENTS REPEALED.

Number and year.	Title or subject of enactment.	Extent of repeal.
1	2	3
Act XXI of 1836.	Creation of new Zilas.	So much as has not been repealed.
Act VI of 1867.	To enable the Lieutenant-Governor of the Punjab to alter the limits of existing districts in any part of the territories under his government.	The whole.
Act VII of 1870.	The Court-fees Act, 1870.	In section 20, clause (*i*), the words "and Revenue", and the whole of section 23.
Act XXXIII of 1871.	The Punjab Land-revenue Act, 1871.	The whole.
Act IV of 1872.	The Punjab Laws Act, 1872.	Section 21.
Act XVIII of 1884.	The Punjab Courts Act, 1884.	Chapter VI.
Regulation I of 1872.	The Punjab Frontier Regulation, 1872.	Rules 26 to 46 (both inclusive), comprising sections G, H, I and K of the Hazára Settlement Rules.

S. HARVEY JAMES,
Secretary to the Government of India.

The following further Report of the Select Committee on the Bill to amend and declare the Land-revenue Law of the Punjab was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th September, 1887:

WE, the undersigned, Members of the Select Committee to which the Bill to amend and declare the Land-revenue Law of the Punjab was re-committed, have re-considered the Bill, and have now the honour to submit this further Report. The alterations which we have made are indicated in italics in the revised Bill annexed to this Report.

2. Having regard to the close connection between the subject-matter of this Bill and that of the Punjab Tenancy Bill, we consider it advisable to assign to the words "rent", "tenant", "landlord" and "tenancy" in this Bill the meanings which they respectively have in the other Bill.

3. We have inserted in the proviso to section 16 words which bring the proviso substantially into accord with sub-sections (5) and (6) of section 84 of the Tenancy Bill as amended by us.

4. In section 117, sub-section (2), we have provided for the determination, by the Revenue-officer as a Revenue Court, of certain questions within the jurisdiction of a Revenue Court which may arise in proceedings for the partition of a tenancy in which a right of occupancy subsists.

5. To section 150 we have added a sub-section to the effect that the proceedings of a Revenue-officer for the prevention of encroachment on common lands are to be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

6. In section 158 we have inserted a clause specially excluding from the jurisdiction of Civil Courts questions relating to village-cesses.

7. The other amendments are not such as to call for remark.

8. The Bill (No. II) and Report were published in English in the Gazette of India of the 30th July, 1887, and in the Punjab Government Gazette of the 4th August, 1887, and are to be published in Urdu in the Punjab Urdu Gazette of the 8th instant.

9. The Bill has not, in our opinion, been so altered as to require re-publication, and we recommend that it be passed as amended by us.

E. G. WACE.

ANDREW R. SCOBLE.

J. B. PEILE.

The 7th September, 1887. J. W. QUINTON.

S. HARVEY JAMES,

Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY OCTOBER 27, 1887.

PART IV.

Acts of the Governor General's Council assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 21st October, 1887, and is hereby promulgated for general information :

ACT No. XX OF 1887.

An Act for the Protection of Wild Birds and Game.

WHEREAS municipal authorities in different parts of British India have from time to time made rules for the protection of birds and other game ;

And whereas it is expedient that Local Governments and cantonment-authorities as well as municipal authorities should be empowered to make such rules ;

It is hereby enacted as follows :—

Title, extent and commencement.

1. (*1*) This Act may be called the Wild Birds Protection Act, 1887.

(*2*) It extends to the whole of British India ; and

(*3*) It shall come into force at once.

Definitions.

2. In this Act—

(*1*) "municipal authority" means the corporation, commissioner, committee, board, council or person having authority over a municipality under any enactment for the time being in force :

(*2*) "cantonment-authority" means a cantonment-committee or, in the case of a cantonment for which such a committee has not been constituted, the commanding officer of the cantonment : and

(*3*) "wild bird" includes a peacock and every bird of game.

Power to make rules.

3. (*1*) The Local Government with respect to any municipality or cantonment within the territories under its administration, or the municipal authority or cantonment-authority of any municipality or cantonment, may from time to time make rules—

(*a*) defining the expression "wild bird" for the purposes of this Act in its application to the municipality or cantonment ;

(*b*) defining for those purposes the breeding season of any kind of wild bird ; and

(*c*) prohibiting, subject to such exceptions and conditions as may be prescribed by the rules, the possession or sale during its breeding season within the municipality or cantonment of any kind of wild bird recently killed or taken, or the importation into the municipality or cantonment of the plumage of any kind of wild bird during such season.

(*2*) The authority making a rule under clause (*c*) of sub-section (*1*) may direct that a breach of it shall be punishable with fine which may extend, in the case of a first offence, to five rupees for every wild bird in respect of which or of the plumage whereof the breach of the rule has been committed, and, in the case of a subsequent offence, to ten rupees in respect of every such bird or plumage.

(*3*) A Court convicting any person of a breach of any such rule may order the confiscation of any wild bird or plumage in respect of which the breach was committed.

(*4*) The power to make rules under this section is subject to the condition of the rules being made after previous publication and, in the case of rules made by a municipal authority or cantonment-authority, to the further condition of the rules being confirmed by the Local Government before they are published in the official Gazette under clause (*5*) of section 6 of the General Clauses Act, 1887. I of 1887.

4. The Local Government, of its own motion or on the application of any municipal authority or cantonment-authority, may, by notification in the official Gazette, declare the provisions of the last foregoing section with respect to wild birds to apply to any animals of game other than birds, and thereupon those provisions shall apply to such animals and their furs in like manner as they apply to wild birds and their plumage.

Power to apply Act to any animals of game.

J. M. MACPHERSON,
Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill for the Protection of Wild Birds and Game was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 6th October, 1887:

WE, the undersigned, Members of the Select Committee to which the Bill for the Protection of Game was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report.

Memorandum by Mr. P. R. Desai, Pleader, District Court, Tanna, dated 25th June, 1887 [Paper No. 1].
From Registrar, High Court, Calcutta, No. 1470, dated 9th July, 1887 [Paper No. 2].
From Chief Commissioner, Ajmere-Merwára, No. 878—690, dated 27th July, 1887 [Paper No. 3].
From Secretary to Chief Commissioner, Coorg, No. 1308—1307, dated 29th July, 1887 [Paper No. 4].
From Secretary for Berar to Resident, Hyderabad, No. 282 G., dated 26th July, 1887, and enclosures [Papers No. 5].
From Secretary to Government, North-Western Provinces and Oudh, No. 951—XII-356 A., dated 29th July, 1887, and enclosures [Papers No. 6].
From Acting Under-Secretary to Government, Bombay, No. 4408, dated 30th July, 1887, and enclosures [Papers No. 7].
Note by the Hon'ble Rana Sir Shankar Baksh Singh, Bahadur, K. C. I. E., dated 7th July, 1887 [Paper No. 8].
From Officiating Under-Secretary to Chief Commissioner, Central Provinces, No. 3930—176, dated 6th August, 1887 [Paper No. 9].
From Officiating Secretary to Government, Bengal, No. 2372—425For., dated 5th August, 1887, and enclosures [Papers No. 10].
From Chief Secretary to Government, Madras, No. 1709, dated 3rd August, 1887, and enclosures [Papers No. 11].
From Secretary to Chief Commissioner, Burma, No. 343—18 L., dated 16th August, 1887 [Paper No. 12].
From Secretary to Chief Commissioner, Assam, No. 1851, dated 7th September, 1887, and enclosures [Papers No. 13].
From Secretary to Government, Punjab, No. 246 S., dated 8th September, 1887, and enclosures [Papers No. 14].

2. We propose that the title of the proposed Act be the Wild Birds Protection Act, but we have empowered Local Governments to apply its provisions to animals of game other than birds.

3. We have proposed that an enhanced penalty may be imposed on any second or subsequent conviction for a breach of rules under the Act, and that any animal in respect of which a breach of those rules has been committed may be confiscated.

4. We have also required proposed rules to be published before they are made.

5. The publication ordered by the Council has been made as follows:

In English.

Gazette.	*Date.*
Gazette of India ...	11th June, 1887.
Fort Saint George Gazette ...	5th July, 1887.
Bombay Government Gazette ...	16th June, 1887.
Calcutta Gazette ...	22nd June, 1887.
North-Western Provinces and Oudh Government Gazette ...	18th June, 1887.
Punjab Government Gazette ...	16th June, 1887.
Central Provinces Gazette ...	25th June, 1887.
Burma Gazette ...	2nd July, 1887.
Assam Gazette ...	2nd July, 1887.
Coorg District Gazette ...	1st July, 1887.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay ...	Maráthi ...	21st July, 1887.
	Gujaráthi ...	14th July, 1887.
	Kanarese ...	21st July, 1887.
Bengal ...	Bengali ...	5th July, 1887.
	Hindi ...	5th July, 1887.
	Uriya ...	7th July, 1887.
North-Western Provinces and Oudh ...	Urdu ...	9th July, 1887.
Punjab ...	Urdu ...	7th July, 1887.
Burma ...	Burmese ...	16th July, 1887.

6. We do not think that the measure has been so altered as to require re-publication, and we recommend that it be passed as now amended.

J. B. PEILE.
G. CHESNEY.
ANDREW R. SCOBLE.
J. W. QUINTON.

The 6th October, 1887.

J. M. MACPHERSON,
Offg. Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JANUARY 6, 1887.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 17th December, 1886:—

No. 27 OF 1886.

A Bill to amend the Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

Amendment of section 4.

1. In the definition of "Officer in charge of a Police-station" in section 4, clause (*o*), of the said Code there shall be substituted for the word "therefrom" the words "from the station-house", and for the words "present at the Police-station" the words "present at the station-house".

Amendment of section 312.

2. In section 312 of the said Code the word "four" shall be substituted for the word "two".

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to amend section 312 of the Code of Criminal Procedure, 1882, the Hon'ble the Chief Justice and Judges of the High Court at Fort William having represented that, as the law at present stands, owing to the numerous absences from Calcutta of gentlemen whose names are on the special jury list, and to the necessity of excusing special jurors from attendance on sufficient grounds, it is found necessary to summon the same gentlemen very frequently, to their manifest inconvenience and to serious interference with their business avocations.

2. A Bill to amend the Code having thus become necessary, the opportunity has been taken to cure a defect which has been noticed by the Government of Bombay in the definition of the expression "Officer in charge of a Police-station."

ANDREW R. SCOBLE.

The 17th December, 1886.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

2

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JANUARY 13, 1887.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 17th December, 1886:—

NO. 27 OF 1886.

A Bill to amend the Code of Criminal Procedure, 1882.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1882; It is hereby enacted as follows:—

Amendment of section 4.

1. In the definition of "Officer in charge of a Police-station" in section 4, clause (*o*), of the said Code there shall be substituted for the word "therefrom" the words "from the station-house", and for the words "present at the Police-station" the words "present at the station-house".

Amendment of section 312.

2. In section 312 of the said Code the word "four" shall be substituted for the word "two".

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to amend section 312 of the Code of Criminal Procedure, 1882, the Hon'ble the Chief Justice and Judges of the High Court at Fort William having represented that, as the law at present stands, owing to the numerous absences from Calcutta of gentlemen whose names are on the special jury list, and to the necessity of excusing special jurors from attendance on sufficient grounds, it is found necessary to summon the same gentlemen very frequently, to their manifest inconvenience and to serious interference with their business avocations.

2. A Bill to amend the Code having thus become necessary, the opportunity has been taken to cure a defect which has been noticed by the Government of Bombay in the definition of the expression "Officer in charge of a Police-station."

ANDREW R. SCOBLE.

The 17th December, 1886.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, JANUARY 20, 1887.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th January, 1887:—

No. I OF 1887.

THE INVENTIONS AND DESIGNS BILL, 1887.

CONTENTS.

SECTIONS.

PART II.

DESIGNS.

SECTIONS.

The Inventions and Designs Bill.

(*Part I.—Inventions.—Sections 1-5.*)

A Bill to consolidate and amend the law relating to the Protection of Inventions and Designs.

WHEREAS it is expedient to consolidate and amend the law relating to the protection of inventions and designs; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Inventions and Designs Act, 1887.

(*2*) It shall extend to the whole of British India; and

(*3*) It shall come into force on the first day of January, 1888.

Repeal.

2. (*1*) The enactments described in the first schedule are hereby repealed to the extent specified in the third column thereof.

(*2*) But this repeal of enactments shall not affect any exclusive privilege acquired, or any conditions or restrictions imposed with respect to any such privilege, or any right or liability accrued or incurred, under any of those enactments before the commencement of this Act, or any relief in respect of any such privilege, right or liability. [..&47 Vic., ..7, s. 113.] [..R. 9 App. .., 589.]

(*3*) Any enactment or document referring to any enactment hereby repealed shall be construed to refer to this Act or to the corresponding portion thereof.

Division of Act into Parts.

3. The remainder of this Act is divided into Parts, as follows:—

PART I.—INVENTIONS.

PART II.—DESIGNS.

PART I.

INVENTIONS.

Definitions.

4. In this Part, unless there is something repugnant in the subject or context,—

(*1*) "invention" includes an improvement [..t XV, ..9, s. 38.]

(*2*) "inventor" does not include the importer into British India of a new invention unless he is the actual inventor: [..t XV, ..9, s. 17.]

(*3*) "applicant" means a person who has applied under this Part for leave to file a specification of an invention, whether he has filed the specification or not: [...]

(*4*) "assign" includes a grantee of the exclusive privilege of making, selling or using an invention, or of authorising others so to do, during the term for which the privilege is to continue or may be extended, or for any shorter term: [..t XV, ..9, s. 38.]

(*5*) "inventor," "actual inventor" and "applicant" include the executors, administrators or assigns of an inventor, actual inventor and applicant, as the case may be: [Act XV, 1859, s. 38.]

(*6*) "manufacture" includes any art, process or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture: [Act XV, 1859, s. 38.]

(*7*) "write" includes print, lithograph, photograph, engrave, and every other mode in which words or figures can be expressed on paper or on any substance: [Act X, 1882, s. 4.]

(*8*) "Secretary" means a Secretary to the Government of India appointed by the Governor General in Council to discharge the functions of the Secretary under this Act, and includes any under-secretary or assistant-secretary to the Government of India to the extent to which he may be authorised by general or special order of the Governor General in Council to discharge any of those functions: [Act XV, 1859, s. 38.]

(*9*) "District Court" has the meaning assigned to that expression by the Code of Civil Procedure; and [New.] XIV of 1882.

(*10*) "High Court" has the meaning assigned to that expression by the Code of Criminal Procedure in reference to proceedings against European British subjects. [New.] X of 1882.

Application for leave to file specification.

5. (*1*) The inventor of a new manufacture, whether he is a British subject or not, may apply to the Governor General in Council for leave to file a specification thereof. [Act XV, 1859, ss. 1 & 18.]

(*2*) The application must be in writing signed by the applicant and in the form or to the effect of the second schedule if the inventor has not obtained a patent in the United Kingdom, and in the form or to the effect of the third schedule if he has obtained a patent in the United Kingdom. [Act XV, 1859, ss. 1 & 20.]

(*3*) It must state the name, occupation and address of the applicant, and, where a patent has been obtained in the United Kingdom, the date of the patent and the date of the actual sealing thereof, and must describe with reasonable precision and detail the nature of the invention, and be supplemented by such further particulars relating to the invention, and by such drawings or models illustrative thereof, as the Governor General in Council may see fit to require from the applicant. [Act XV, 1859, ss. 1 & 20.] [46 & 47 Vic., c. 57, s. 5.]

(*4*) Nothing in this section shall be deemed to preclude an inventor who has applied for a patent in the United Kingdom from applying, while his application for the patent is still pend- [New.]

The Inventions and Designs Bill.

(Part I.—Inventions.—Sections 6-11.)

ing, for leave to file a specification under this Part.

[Act XV, 1859 s. 2.]

Order to file specification.

6. (*1*) Upon an application under the last foregoing section the Governor General in Council may, after such inquiry as he thinks fit, make an order authorising the applicant to file a specification of the invention.

[Act XV, 1859, s. 3.]

(*2*) Before making an order under sub-section (*1*), the Governor General in Council may direct that the application be referred for enquiry and report to any person whom he thinks fit.

(*3*) If that person makes the enquiry and report, he shall receive such fee for his services as the Governor General in Council, after considering the report, may determine.

(*4*) The fee shall be paid by the applicant, who shall, before the application is sent for enquiry and report to the person appointed under sub-section (*2*), deposit, in such place and within such time as the Governor General in Council may by rule or otherwise prescribe, such sum as will, in the opinion of the Governor General in Council, be sufficient to cover the amount of the fee.

(*5*) If the sum is not deposited in the place and within the time prescribed, the application may be rejected.

(*6*) If the fee as determined by the Governor General in Council exceeds the sum so deposited, an order shall not be made under sub-section (*1*) until the applicant has paid the balance of the fee.

(*7*) If the sum deposited exceeds the fee so determined, the excess shall be refunded to the applicant.

[46 & 47 Vic., c. 57, s. 13.]

Applications in respect of contemporaneous inventions.

7. (*1*) If two or more inventors apply on the same day for leave to file specifications of inventions which appear to the Governor General in Council to be identical or so similar as to be practically identical, the Governor General in Council may, in his discretion, authorise both or all the applicants, subject to the other provisions of this Part, to file specifications of their respective inventions.

(*2*) If they apply on different days for leave to file specifications of such inventions as aforesaid, the applicant who applied on the first of the different days shall be deemed to have a preferential claim to an order authorising the filing of his specification.

[Act XV, 1859, s. 4.]

Acquisition and continuance of exclusive privilege.

8. (*1*) If within six months from the date of an order under section 6, sub-section (*1*), or within such further time, not exceeding three months, as the Governor General in Council, in his discretion, may, on cause shown to his satisfaction and on payment of the fee prescribed in that behalf in the fourth schedule, see fit to allow, the applicant causes a specification of his invention to be filed in manner by this Part required, and the fee prescribed in the fourth schedule in respect of the filing of the specification to be paid, the applicant shall, subject to the other provisions of this Part, be entitled to the exclusive privilege of making, selling and using the invention in British India, and of authorising others so to do, for a term of fourteen years from the date of the filing of the specification.

[46 & 47 Vic., c. 57, s. ...]

(*2*) But an exclusive privilege in respect of an invention of a new manufacture shall, notwithstanding anything in sub-section (*1*), cease if the inventor fails to pay, within the time limited in that behalf by the fourth schedule, any fee prescribed in that schedule in respect of the continuance of the privilege.

[Act XV, 1859, ...]

(*3*) If, nevertheless, in any case, by accident, mistake or inadvertence, an inventor fails to pay any such fee within the time so limited, he may apply to the Governor General in Council for an enlargement of the time for making the payment.

(*4*) Thereupon the Governor General in Council may enlarge the time accordingly, on payment of the fee prescribed in that behalf in the fourth schedule and subject to the following conditions, namely:—

[Act XV, 1859, ...]

(*a*) the time for making a payment shall not in any case be enlarged for more than three months; and

(*b*) if any suit is instituted in respect of an infringement of the exclusive privilege committed after a failure to make a payment within the time limited for the making thereof and before the enlargement of that time, the Court disposing of the suit may, if it thinks fit, refuse to award or give any damages in respect of the infringement.

[Act XV, 1859, s. ...]

Form and contents of specification.

9. A specification of an invention filed under this Part must be in writing signed by the applicant, and must particularly describe and ascertain the nature of the invention and in what manner it is to be performed.

[Act XV, 1859, s. ...]

[Act XV, 1859, s. ...]

Mode of filing application and specification.

10. Every application for leave to file a specification, and every specification filed under this Part, must be left with, or sent by post to, the Secretary, and the date of the delivery or receipt thereof shall be endorsed thereon and recorded in his office.

[46 & 47 Vic., c. 57, s. ...]

[Act XV, 1859, ...]

Delivery and distribution of copies of specification.

11. (*1*) At the time of delivering or sending the specification for the purpose of its being filed, the applicant shall cause to be

The Inventions and Designs Bill.

(Part I.—Inventions.—Sections 12-17.)

delivered or sent to the Secretary three copies thereof, of which—

(*a*) one shall be sent to and filed by the Government of Fort St. George;

(*b*) one shall be sent to and filed by the Government of Bombay; and

(*c*) one shall be retained by the Secretary.

(*2*) The copies of the specification which are sent under sub-section (*1*) to the Governments of Fort St. George and Bombay shall be open to the inspection of any person at all reasonable times at places to be appointed by those Governments.

[Act XV, 1859, s. 11.]

Register of inventions.

12. (*1*) A book, to be called the register of inventions, shall be kept in the office of the Secretary wherein shall be entered and recorded every application for leave to file a specification, every order made on any such application, every specification filed and every proceeding relating to the invention therein mentioned.

(*2*) Every specification shall be numbered according to the order in which it is entered in the register of inventions, and a reference shall be made in that register, in the margin of the entry of each specification, to every order relating to the invention and to every application, memorandum or amended specification which may be filed under this Part.

[Act XV, 1859, s. 35.]

Address-book.

13. (*1*) Another book, to be called the address-book, shall be kept in the office of the Secretary wherein any person filing a specification under this Part, or any person in whom an exclusive privilege acquired under this Part, or any share or interest therein, may become vested, may from time to time cause to be stated some place in British India where notice of any rule or proceeding relating to the exclusive privilege may be served on him.

(*2*) A reference to each entry in the address-book shall be made in the register of inventions in the margin of the entry of the specification in that register.

[Act XV, 1859, s. 12.]

Provisions with respect to the register and book.

14. (*1*) An entry in the register of inventions or address-book shall, for the purposes of the law of evidence for the time being in force, be deemed to be a public document, and the register and book, or copies thereof, shall be open to the inspection of any person at all reasonable times at the office of the Secretary.

[46 & 47 Vic., c. 57, s. 114.]

(*2*) The books kept under section 11 and section 35 of Act No. XV of 1859 (*an Act for granting exclusive Privileges to Inventors*) shall be deemed to be parts of the register of inventions and address-book respectively.

Extension of exclusive privilege.

15. (*1*) The inventor of a new manufacture may, at any time not more than one year and not less than six months before the time limited for the expiration of an exclusive privilege acquired under section 8, apply to the Governor General in Council for an extension of the privilege for a further term. [Act XV, 1859, s. 4, and 46 & 47 Vic., c. 57, s. 25.]

(*2*) When an application is made under sub-section (*1*), the Governor General in Council may, if he thinks fit, refer it to a High Court for report.

(*3*) The Court to which the petition is referred shall, in making its report, have regard to the nature and merits of the invention in relation to the public, to the profits made by the inventor as such, and to all the circumstances of the case.

(*4*) The procedure on the reference shall be such as the Court thinks fit.

(*5*) If the Governor General in Council is of opinion, or, where a reference has been made under sub-section (*2*), if the Court reports, that the inventor has been inadequately remunerated by his exclusive privilege, the Governor General in Council may, on payment of the fee prescribed in that behalf in the fourth schedule, make an order extending the term of the privilege for a further term not exceeding seven or, in exceptional cases, fourteen years from the expiration of the first term of fourteen years.

Imposition of conditions with respect to exclusive privilege.

16. An order under section 6, sub-section (*1*), authorizing the filing of a specification, or under section 15, sub-section (*5*), extending the term of an exclusive privilege, may be made subject to such conditions as the Governor General in Council thinks expedient. [Act XV, 1859, s. 5.]

Exclusive privilege to bind the Government.

17. (*1*) Subject to any conditions imposed under the last foregoing section— [46 & 47 Vic., c. 57, s. 27.]

(*a*) with respect to the filing, by a person employed in the service of Her Majesty in India, of the specification of a manufacture invented by him in the course of his employment, or

(*b*) with respect to the extension, in favour of any person, of the term of an exclusive privilege,

an exclusive privilege acquired under this Part shall have to all intents the like effect as against Her Majesty as it has against a subject.

(*2*) But the officers or authorities administering any department of the service of Her Majesty may, by themselves, their agents, contractors or others, at any time after the delivery or receipt of the application for leave to file the specification of an invention, use the invention for the services of the Government on terms to be before or after the use thereof agreed on, with the approval of the Governor General in

The Inventions and Designs Bill.

(Part I.—Inventions.—Sections 18-24)

Council, between those officers or authorities and the inventor, or, in default of such agreement, on such terms as may be settled by the Governor General in Council.

[t XV, 9, s. 14.]

Application for leave to file memorandum or amended specification.

18. (*1*) If, after the filing of the specification, the applicant has reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his application or specification, or included therein something which at the date of the delivery or receipt of his application was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, he may apply to the Governor General in Council for leave to file a memorandum pointing out the error, defect or insufficiency, and disclaiming any part of the alleged invention, or, in case of any defect or insufficiency of the specification, asking for leave to file an amended specification.

(*2*) The application must be in writing signed by the applicant, and must state how the error, defect or insufficiency occurred and that it was not fraudulently intended.

(*3*) Upon the application the Governor General in Council may make an order allowing the memorandum or amended specification to be filed.

(*4*) The provisions of sections 11, 12 and 14 with respect to specifications shall be applicable to the applications, orders, memoranda and amended specifications referred to in this section.

[ct XV, 59, s. 14.]

Effect of amended specification.

19. An amended specification filed under the last foregoing section shall, except as to any suit or proceeding relating to the exclusive privilege which may be pending at the time of the filing of the amended specification, have the same effect as if it had been the specification first filed:

Provided that nothing in an amended specification shall be construed to extend or enlarge an exclusive privilege before acquired.

[t XV, 9, s. 15.]

Bar to exclusive privilege in certain cases.

20. A person shall not be entitled to an exclusive privilege under this Part—

(*a*) if the invention is of no utility, or

(*b*) if the invention, at the date of the delivery or receipt of the application for leave to file the specification, was not a new invention within the meaning of this Part, or

(*c*) if the applicant is not the inventor thereof, or

(*d*) if the specification filed or the amended specification, if any, does not particularly describe and ascertain the nature of the invention and in what manner it is to be performed, or

(*e*) if the original or any subsequent application relating to the invention or the original or any amended specification contains a wilful or fraudulent mis-statement.

Novelty of invention dependent on public use or knowledge thereof before application to file specification.

21. An invention shall be deemed a new invention within the meaning of this Part if it has not, before the date of the delivery or receipt of the application for leave to file the specification, been publicly used in any part of British India or of the United Kingdom, or been made publicly known in any part of British India or of the United Kingdom by means of a written publication. [Act ... 1859, ...]

Effect of public use or knowledge of invention in fraud of inventor.

22. The public use or knowledge of an invention before the date of the delivery or receipt of the application for leave to file a specification shall not be deemed a public use or knowledge within the meaning of this Part if the knowledge has been obtained surreptitiously or in fraud of the inventor or has been communicated to the public in fraud of the inventor or in breach of confidence: [Act XV, 1859, s. ...]

Provided that the inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of that use, he applies for leave to file a specification.

Effect of public use of invention by inventor for purpose of experiment or trial.

23. The use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his license in writing, for a period not exceeding one year immediately preceding the date of the delivery or receipt of his application for leave to file a specification, shall not be deemed a public use thereof within the meaning of this Part. [Act XV, 1859, s. ...]

Effect of public use or knowledge of patented invention between application for patent and application to file specification.

24. If an inventor who has obtained a patent for his invention in the United Kingdom causes an application for leave to file a specification of the invention under this Part to be delivered or received by the Secretary within twelve months from the date of the actual sealing of the patent, the invention shall be deemed a new invention within the meaning of this Part if it was not publicly used or known in any part of British India at or before the date of the application for the patent, notwithstanding that it may have been publicly used or known in some part of British India or of the United Kingdom before the date of the delivery or receipt of the application under this Part for leave to file the specification. [Act XV, 1859, s. ...]

The Inventions and Designs Bill.

(*Part I.—Inventions.—Sections 25-30.*)

[ew. cf 46 & 47 Vic., c. ..., ss. 103 ... d 104.]

Effect of like public use or knowledge of unpatented invention.

25. If an inventor applies for leave to file a specification under this Part while his application for a patent is pending in the United Kingdom, and the interval between the date of his application for the patent and the date of the delivery or receipt of his application under this Part does not exceed twelve months, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having been used, or a description thereof having been published, in any part of British India or of the United Kingdom during the interval.

[...6 & 47 Vic., ...57, s. 39, ...d Act XVI ...1883.]

Effect of public use or knowledge of invention after admission to an exhibition.

26. If an inventor, being the exhibitor of his invention at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for leave to file a specification of the invention to be delivered to or received by the Secretary within six months from the date of the admission of the invention into that exhibition, the invention shall not be deemed to have been publicly used, or made publicly known, within the meaning of this Part, by reason only of the invention having at any time after its admission into the exhibition been publicly used or made publicly known.

[...ct XV, ...59, s. 16.]

Cessation of exclusive privilege by order of the Government.

27. (*1*) An exclusive privilege acquired under this Part shall cease if the Governor General in Council declares the privilege, or the mode in which it is exercised, to be mischievous to the State, or generally prejudicial to the public.

(*2*) It shall also cease if a breach of any condition on which the applicant was authorised to file a specification, or on which the term of the exclusive privilege was extended, is proved to the satisfaction of a High Court, and if the Governor General in Council thereupon declares the privilege to have ceased.

[... XV, ..., s. 20.]

Cessation of exclusive privilege on revocation of patent.

28. An exclusive privilege acquired under this Part in respect of an invention for which a patent has been obtained in the United Kingdom shall cease if the patent for the invention is revoked.

[... XV, ..., s. 22.]

Suit for infringement of exclusive privilege.

29. (*1*) An inventor may institute a suit in the District Court against any person who, during the continuance of an exclusive privilege acquired by him under this Part in respect of an invention, makes, sells or uses the invention without his license, or counterfeits or imitates it.

[... XV, ..., s. 23.]

(*2*) The suit shall not be defended upon the ground of any defect or insufficiency of the specification of the invention, or upon the ground that the original or any subsequent application relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or upon the ground that the invention is of no utility:

(*3*) Nor shall it be defended upon the ground that the plaintiff was not the inventor unless the defendant shows that he himself is the actual inventor or has obtained from the actual inventor a right to make, sell or use the invention, or to counterfeit or imitate it, as the case may be:

(*4*) Nor shall it be defended upon the ground that the invention was not new unless the defendant, or some person through whom he claims, has, before the date of the delivery or receipt of the application for leave to file the specification, publicly or actually used in some part of British India or of the United Kingdom the invention or that part of it with respect to which the exclusive privilege is alleged to have been infringed.

Application to declare exclusive privilege in respect of an invention not to have been acquired.

30. Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention to be specified in the rule has not been acquired under this Part by reason of all or any of the objections following (to be specified in the rule), that is to say:— [Act XV, 1859, s. 24.]

(*a*) that the invention is of no utility, or

(*b*) that the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or

(*c*) that the applicant was not the inventor thereof, or

(*d*) that the specification or the amended specification, if any, does not particularly describe and ascertain the nature of the invention, or in what manner it is to be performed, or

(*e*) that the applicant has knowingly or fraudulently included in the application or specification or amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or

(*f*) that the original or any subsequent application relating to the invention, or the specification or amended specification, contains a wilful or fraudulent mis-statement, or

(*g*) that some part of the invention, or the manner in which that part is to be performed, as described in the specification or amended specification, is not there-

The Inventions and Designs Bill.

(Part I.—Inventions.—Sections 31-35.)

by sufficiently described and ascertained, and that this insufficiency was fraudulent and is injurious to the public.

XV, s. 25.] **31.** Any person may apply to a High Court for a rule to show cause why the Court should not declare that an exclusive privilege in respect of any part of an invention to be specified in the rule has not been acquired under this Part, by reason of all or any of the objections following (to be specified in the rule), that is to say:—

Like application as to part of an invention.

(*a*) that that part of the invention is wholly distinct from the other part thereof and is of no utility, or

(*b*) that that part of the invention was not, at the date of the delivery or receipt of the application for leave to file the specification, a new invention within the meaning of this Part, or

(*c*) that the applicant was not the inventor of that part of the invention, or

(*d*) that that part of the invention, and the manner in which it is to be performed, are not sufficiently described and ascertained in the specification or the amended specification, if any, and that this insufficiency is injurious to the public.

XV, s. 26.] **32.** (*1*) Any person authorised by the Governor General in Council in this behalf may apply to a High Court for a rule to show cause why the question of the breach of any condition on which the leave to file a specification has been granted, or any other question of fact on which the cessation of an exclusive privilege under section 27 may, in the judgment of the Governor General in Council, depend, should not be tried in the form of an issue directed by the Court.

Application on breach of condition.

(*2*) If the rule is made absolute, the Court, unless the breach or other matter of fact is admitted, may direct the issue to be tried and certify the result of the trial to the Governor General in Council.

XV, s. 27.] **33.** (*1*) Notice of any rule obtained or proceeding taken under either of the last three foregoing sections shall be served on all persons appearing from the address-book to be proprietors of the exclusive privilege, or to have shares or interests therein, and it shall not be necessary to serve the notice on any other persons.

Notice of proceedings to persons interested.

XV, s. 35.] (*2*) The notice shall be deemed to be sufficiently served if a copy thereof is left at the place for the time being stated in the address-book, by delivering the copy to any person resident at or in charge of the place, or, if there is no person resident at or in charge of the place, or if the place is not within the local limits of the jurisdiction of the Court, by causing the notice to be sent to the place by post by a registered letter directed to the person to whom the notice is addressed.

34. (*1*) The High Court may, if it thinks fit, direct an issue for the trial, before itself or any other High Court, or any District Court, of any question of fact arising upon an application under section 30, section 31 or section 32, and the issue shall be tried accordingly. [Act XV, 1859, s.]

Framing issue for trial before other Court.

(*2*) If the issue is directed to another Court, the finding shall be certified by that Court to the Court directing the issue.

(*3*) If the issue is directed to a District Court, the finding of that Court shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge of the Court, shall be transmitted, together with any remarks which he may think fit to make thereon, to the High Court, and the High Court may thereupon either act upon the finding of the District Court or direct a new trial as it thinks fit.

35. (*1*) If it appears to the High Court at the hearing of an application under section 30 or section 31 that, by reason of any of the objections specified in the rule, the exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall make an order accordingly, and thereupon the applicant shall, so long as the order continues in force, cease to be entitled to the exclusive privilege. [Act XV, 1859, s.]

Order on application.

(*2*) If it appears to the High Court, at the hearing of any such application as last aforesaid, that the applicant has, in the description of his invention in the application for leave to file the specification, or in the specification or amended specification, if any, included something which at the date of the delivery or receipt of the application for leave to file the specification was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect or insufficiency was not fraudulently intended, the Court may adjudge the exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by the error, defect or insufficiency: or [Act XV, 1859, s.]

(*3*) If it appears to the High Court that the error, defect or insufficiency can be amended without injury to the public, the Court may adjudge the exclusive privilege in respect of the whole of the invention to be valid, and may, upon such terms as it thinks reasonable, order the specification to be amended in any particular in which it is erroneous, defective or insuffi-

The Inventions and Designs Bill.

(Part I.—Inventions.—Sections 36-39.)

cient, and thereupon the applicant shall, within a time to be limited by the Court for the purpose, file a specification amended according to the order:

Provided that nothing in the amended specification shall be construed to extend or enlarge the exclusive privilege before acquired.

[Act XV, 1859, s. 31.] (4) An exclusive privilege in respect of an invention shall not be defeated upon the ground that the application for leave to file the specification of the invention contains a mis-statement, unless the mis-statement was wilful or fraudulent.

[Act XV, 1859, s. 34.] Delivery of particulars. 36. (1) In a suit for the infringement of an exclusive privilege acquired under this Part the plaintiff shall deliver with his plaint particulars of the breaches complained of in the suit, and the defendant shall deliver a written statement of the particulars of the grounds, if any, upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in respect of the invention.

(2) In like manner, upon an application to a High Court under section 30, section 31 or section 32, the person making the application shall deliver particulars of the objections or grounds on which he means to rely.

(3) At the hearing of any such suit or application, or at the trial of any issue arising out of any such application, evidence shall not be allowed to be given in support of any alleged infringement or of any objection or ground impeaching the validity of the exclusive privilege which is not contained in the particulars delivered under this section.

(4) If it is alleged that the invention was publicly used or known before the date of the delivery or receipt of the application for leave to file the specification, the places where and the manner in which the invention was so publicly used or known shall be stated in the particulars.

(5) Notwithstanding anything in the foregoing portion of this section, the Court in which the suit or application is pending, or an issue arising out of the application is being tried, may allow the plaintiff or defendant respectively to amend the particulars delivered under this section upon such terms as it thinks fit.

[Act XV, 1859, s. 33.] Title of actual inventor to exclusive privilege in case of fraud. 37. If, in a suit instituted in the District Court within two years from the date of the delivery or receipt of an application for leave to file a specification, the actual inventor proves to the satisfaction of the Court that the applicant was not the actual inventor, and that at the time of the application for leave to file the specification he knew or had reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived the knowledge, the Court may make a decree declaring an exclusive privilege in respect of the invention to be vested, subject to the other provisions of this Part, in the actual inventor for a term of fourteen years from the date of the filing of the specification, and requiring the applicant to account for and pay over to the actual inventor the profits derived by him from the invention.

Transmission of copies of decrees and orders to Secretary. 38. A Court making a decree in a suit under section 29 or section 37, or an order on an application under section 30, section 31 or section 32, shall send a copy of the decree or order, as the case may be, to the Secretary, who shall cause an entry thereof to be made in the register of inventions and against any entry in the address-book affected thereby. [New.]

Registration of cessation of exclusive privilege. 39. In the following cases, namely— [Act XV, 1859, s. 32.]

(a) when an exclusive privilege acquired under this Part has ceased under section 8 by reason of a fee in respect of the continuance of the privilege not having been paid within the time limited by the fourth schedule for the payment thereof, and the period within which an order might have been made for enlarging the time for the making of the payment has expired;

(b) when an exclusive privilege acquired under this Part has been declared by the Governor General in Council under section 27 to have ceased;

(c) when an exclusive privilege acquired under this Part has ceased under section 28 by reason of the revocation of a patent;

(d) when the whole or any part of an exclusive privilege acquired under this Part has ceased under section 35 in consequence of an order under that section;

(e) when an exclusive privilege has been declared by a decree to have vested in an actual inventor under section 37;

(f) when an exclusive privilege acquired under this Part has ceased by reason of the expiration of the term for which it was acquired;

the Secretary shall cause an entry with respect to the cessation or vesting of the exclusive privilege to be made in the register of inventions,

The Inventions and Designs Bill.

(Part I.—Inventions.—Sections 40-46.—Part II.—Designs.—Section 47.)

and a reference to that entry to be made in the margin of the entry of the specification in that register.

[47 Vic., s. 90.] Rectification of register of inventions or address-book.

40. (1) If any person is aggrieved by an entry in the register of inventions or address-book, or by the omission of an entry therefrom, and a proceeding is not provided in the foregoing portion of this Part whereby the register or book may be rectified, he may apply to a High Court for an order for the rectification of the register or book, and the Court may make such order on the application as it thinks fit.

(2) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause an entry thereof to be made in the register of inventions and against any entry in the address-book affected thereby.

(3) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

[...X, 1865, ...] Power to High Court to stay proceedings on or dismiss certain applications.

41. A High Court to which an application has been made under section 30, section 31, section 32 or section 40 may stay proceedings on, or dismiss, the application if in its opinion the application would be disposed of more justly or conveniently by another High Court.

[47 Vic., s. 22.] Power for Governor General in Council to require grant of licenses.

42. If on the petition of any person interested it is proved to the Governor General in Council that, by reason of an inventor who has acquired an exclusive privilege under this Part failing to grant licenses on reasonable terms,—

(a) the exclusive privilege is not being worked in British India, or

(b) the reasonable requirements of the public with respect to the invention cannot be supplied, or

(c) any person is prevented from working or using to the best advantage an invention of which he is possessed,

the Governor General in Council may order the inventor to grant, or may himself on behalf of the inventor grant, licenses on such terms as to the amount of royalties, security for payment, or otherwise, as the Governor General in Council, having regard to the nature of the invention and the circumstances of the case, may deem just.

[...V, ...1.] Agents.

43. If an applicant is absent from British India, an application for leave to file a specification, memorandum or amended specification may, instead of being signed by the applicant under section 5, section 9 or section 18, as the case may be, be signed on behalf of the applicant by an agent in British India authorised by him in writing in that behalf.

Verification of applications. [Act XV, 1859, ss. 14.]

44. (1) An application under this Part for leave to file a specification, memorandum or amended specification must be verified by the person making the application.

(2) If that person is absent from British India, the application may be verified by the agent who signs the application on his behalf.

(3) The verification must be signed by the person making it, and must be to the effect that the facts stated in the application are true to his knowledge, except as to matters stated on information and belief, and that as to those matters he believes them to be true.

Fees. [Act I, 18.., Schedule, Article 4.., and 46 & 4.. Vic., c. 57, s. 24.]

45. (1) There shall be paid in respect of the several proceedings specified in the fourth schedule the fees in that schedule prescribed.

(2) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(3) The fees payable under this section shall be collected by means of stamps or otherwise as the Governor General in Council directs.

(4) A proceeding in respect of which a fee is payable under the fourth schedule shall be of no effect unless the fee has been paid.

Rules and forms. [New.]

46. (1) The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part, and may alter or amend either of the forms in the second and third schedules.

(2) Rules under this section may provide, among other matters, for the printing of specifications, memoranda and amended specifications, and for the distribution or sale of printed copies thereof. [46 & 47 Vic., c. 57, s. 100.]

PART II.

DESIGNS.

Definitions.

47. In this Part, unless there is something repugnant in the subject or context,—

(1) "design" means some peculiar shape, configuration or form given to an article, or arrangement of lines or the like used on or with an article, but not the article itself: [Brice on 46 & 47 Vic., c. 57, s. 47.]

(2) "copyright" means the exclusive right to apply a design to an article: [46 & 47 Vic., c. 57, s. 60.]

(3) the author of any new and original design shall be considered the "proprietor" thereof, [46 & 47 Vic., c. 57, s. 61.]

The Inventions and Designs Bill.

(Part II.—Designs.—Sections 48-56.)

unless he executed the work on behalf of another person for a good or valuable consideration, in which case that person shall be considered the "proprietor," and every person acquiring for a good or valuable consideration a new and original design, or the right to apply the same to an article, either exclusively of any other person or otherwise, and also every person on whom the property in the design or the right to the application thereof shall devolve, shall be considered the "proprietor" of the design in the respect in which the same may have been so acquired, and to that extent, but not otherwise:

(4) "Secretary," "District Court" and "High Court" have the same meanings as in Part I.

[46 & 47 Vic., c. 57, ss. 47 and 48.]

Application for order for registration of design.

48. (1) Any person claiming to be the proprietor of any new and original design not previously published in British India may apply to the Governor General in Council for an order for the registration of the design.

(2) The application must contain a statement of the nature of the design, and be accompanied by not fewer than three copies of drawings, photographs or tracings of the design, and must be left with, or sent by post to, the Secretary.

(3) The date of the delivery or receipt of the application in the office of the Secretary shall be endorsed thereon and recorded in that office.

[Act XV, 1859, s. 2.]

Registration in register of designs.

49. (1) Upon the application the Governor General in Council may, after such inquiry as he thinks fit, make an order authorizing the registration of the design.

(2) When an order has been made under sub-section (1), the Secretary shall cause the design to be registered in a book to be kept by him for the purpose and to be called the register of designs.

(3) The date of registration shall be recorded in the register.

[46 & 47 Vic., c. 57, s. 50, and Act XIII, 1872, s. 3.]

Acquisition of copyright.

50. When a design is registered, the proprietor of the design shall, subject to the other provisions of this Part, have copyright in the design during five years from the date of registration.

[46 & 47 Vic., c. 57, s. 51.]

Marking registered designs.

51. (1) Before delivery on sale of any article to which a registered design has been applied, the proprietor of the design shall cause the article to be marked with the word "registered" either in full or in an abbreviated form.

(2) If he fails to cause the article to be so marked, the copyright in the design shall cease unless the proprietor shows that he took all proper steps to ensure the marking of the article.

[46 & 47 Vic., c. 57, s. 57.]

Effect of exhibiting unregistered designs at exhibitions.

52. If the proprietor of a design exhibited at an industrial or international exhibition, certified as such by the Governor General in Council, causes an application for an order for the registration of the design to be delivered to or received by the Secretary within six months from the date of the admission of the design into that exhibition, the design shall not be deemed not to be new or original within the meaning of section 48 by reason only of the design having been exhibited at the exhibition.

[46 & 47 Vic. c. 57, s. 59.]

Suit for infringement of copyright.

53. (1) The proprietor of a registered design may institute a suit in the District Court for the recovery of any damages arising from the application of the design, or of any fraudulent or obvious imitation thereof, for the purpose of sale by any person to any article, or from the publication, sale or exposure for sale by any person of any article to which the design, or any fraudulent or obvious imitation thereof, has been applied, that person knowing or having reason to believe that the proprietor had not given his consent to such application.

(2) When the Court makes a decree in a suit under this section, it shall send a copy of the decree to the Secretary, who shall cause an entry thereof to be made in the register of designs.

[Act XV, 1859, s. 36.]

Mutation of names in register of designs.

54. Any person in whom the copyright in a design, or any share or interest therein, has become vested may apply to the Secretary for the entry of his name in the register of designs as proprietor of the copyright, or of a share or interest therein, and the Secretary may, if he sees fit, cause the entry to be made.

[New]

Registration of cessation of copyright.

55. (1) When, from the expiration of the term of a copyright or from any other cause, the copyright in a design has ceased, the Secretary shall cause an entry with respect to the cessation of the right to be made in the register of designs.

[46 & 47 Vic., c. 57, s. 90.]

Rectification of register of designs.

56. (1) A High Court may, on the application of any person aggrieved by an entry in the register of designs, or by the omission of an entry therefrom, make such order for the rectification of the register as it thinks fit.

(2) An order under sub-section (1) may declare copyright in a design not to have been acquired.

(3) A copy of the order shall be forwarded by the Court to the Secretary, who shall cause

The Inventions and Designs Bill.

(Part II.—Designs.—Sections 57-60.—The First Schedule.—Enactments repealed. The Second Schedule.—Application where Patent has not been obtained.—The Third Schedule.—Application where Patent has been obtained.)

an entry thereof to be made in the register of designs.

(*4*) When the Secretary is a party to an application under this section, the costs of another party thereto shall not be adjudged to be payable by the Secretary.

ct X, 1865, 241.]

Power to High Court to stay proceedings on or dismiss application for rectification of register.

57. A High Court to which an application has been made under the last foregoing section may stay proceedings on, or dismiss, the application if, in its opinion, the application would be disposed of more justly or conveniently by another High Court.

6 & 47 Vic., 57, s. 52.]

Provisions with respect to register of designs.

58. An entry in the register of designs shall, for the purposes of the law of evidence for the time being in force, be deemed to be a public document, and the register or a copy thereof shall be open to the inspection of any person at all reasonable times.

5 & 47 Vic., 57, s. 56.]

Fees.

59. (*1*) There shall be paid in respect of the several proceedings specified in the fifth schedule the fees in that schedule prescribed.

(*2*) The Governor General in Council may, if he thinks fit, reduce any of those fees and revoke or vary the reduction.

(*3*) The fees payable under this section shall be collected by means of stamps or otherwise, as the Governor General in Council may direct.

(*4*) A proceeding in respect of which a fee is payable under the fifth schedule shall be of no effect unless the fee has been paid.

& 47 Vic., 7, s. 117.]

Rules and forms.

60. The Governor General in Council may make such rules and prescribe such forms as he thinks necessary for carrying out the purposes of this Part.

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(*See section 2.*)

Number and year.	Subject or title.	Extent of repeal.
XV of 1859 .	For granting exclusive Privileges to Inventors.	So much as has not been repealed.
XIII of 1872 .	Patterns and Designs Protection Act, 1872.	So much as has not been repealed.
XVI of 1883 .	Protection of Inventions Act, 1883.	The whole.
I of 1879 .	Indian Stamp Act, 1872.	Article 48, Schedule I.

THE SECOND SCHEDULE.

APPLICATION WHERE PATENT HAS NOT BEEN OBTAINED.

(*See sections 5 and 46.*)

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I of the Inventions and Designs Act, 1887.

1. The applicant is in possession of an invention for (*state the title of the invention*) which invention he believes will be of public utility; he is the inventor thereof (*or, as the case may be, the executor, administrator or assign of the inventor*); and the invention is not publicly used or known in any part of British India or of the United Kingdom to the best of his knowledge and belief.

2. The following is a description of the invention (*here describe it*).

3. The applicant therefore prays for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs Act, 1887.

(*Signature and verification.*)

THE THIRD SCHEDULE.

APPLICATION WHERE PATENT HAS BEEN OBTAINED.

(*See sections 5 and 46.*)

TO THE GOVERNOR GENERAL IN COUNCIL.

The application of (*here insert name, occupation and address*) for leave to file a specification under Part I of the Inventions and Designs Act, 1887.

1. The applicant (*or, as the case may be, A. B. of whom the applicant is the executor, administrator or assign*) has obtained a patent in the United Kingdom dated and sealed as of the day of , and actually sealed on the day of , for (*state the title of the invention*).

2. The applicant believes that the invention was not publicly used or known in any part of British India at or before the date of the application for the patent.

3. The following is a description of the invention (*here describe it*).

4. The applicant therefore applies for leave to file a specification of the invention pursuant to Part I of the Inventions and Designs, Act, 1887.

(*Signature and verification.*)

The Inventions and Designs Bill.

(*The Fourth Schedule.—Fees* (*Inventions*).)

(*The Fifth Schedule.—Fees* (*Designs*).)

THE FOURTH SCHEDULE.

FEES (*Inventions*).

(*See sections 8, 15, 39 and 45.*)

	Rs.	a.	p.
(*1*) in respect of an application for leave to file a specification (section 5)	10	0	0
(*2*) in respect of the filing of a specification (section 8)	30	0	0
(*3*) in respect of an extension of the time for filing a specification (section 8)	20	0	0
(*4*) in respect of the continuance of an exclusive privilege (section 8)—			
(*a*) after the filing of the specification and before the expiration of the second year from the date of the filing thereof	75	0	0
(*b*) after the expiration of the second year and before the expiration of the fourth year from that date	75	0	0
(*c*) after the expiration of the fourth year and before the expiration of the sixth year from that date	100	0	0
(*d*) after the expiration of the sixth year and before the expiration of the eighth year from that date	100	0	0
(*e*) after the expiration of the eighth year and before the expiration of the tenth year from that date	150	0	0

Provided that the inventor may pay the sum total of the said fees in respect of the continuance of the exclusive privilege, or any part thereof short of the sum total, at any time before the same falls due.

	Rs.	a.	p.
(*5*) in respect of an enlargement of the time for payment of a fee under article (*4*) of this schedule (section 8)—			
(*i*) if the enlargement does not exceed one month	10	0	0
(*ii*) if the enlargement exceeds one month, but does not exceed two months	25	0	0
(*iii*) if the enlargement exceeds two months	50	0	0
(*6*) in respect of an application for an extension of an exclusive privilege for a further term (section 15)	50	0	0
(*7*) in respect of an order extending the term of an exclusive privilege (section 15)	200	0	0
(*8*) in respect of an application for leave to file a memorandum or amended specification (section 18)	20	0	0
(*9*) in respect of a petition to the Governor General in Council for a compulsory license (section 42)	50	0	0
(*10*) for the inspection of any book or other document which is open to inspection under Part I	1	0	0
(*11*) for copies—			
(*a*) when the number of words copied does not exceed four hundred	1	0	0
(*b*) for every hundred words in excess of four hundred	0	4	0
(*c*) of drawings	cost according to agreement.		
(*12*) for certifying copies— for every hundred words	0	2	0

THE FIFTH SCHEDULE.

FEES (*Designs*).

(*See section 59.*)

	Rs.	a.	p.
(*1*) in respect of an application for an order for the registration of a design (section 48)	10	0	0
(*2*) in respect of a mutation of names in the register of designs (section 54)	5	0	0
(*3*) for the inspection of any book or other document which is open to inspection under Part II	1	0	0
(*4*) for copies—			
(*a*) when the number of words copied does not exceed four hundred	1	0	0
(*b*) for every hundred words in excess of four hundred	0	4	0
(*c*) of drawings	cost according to agreement.		
(*5*) for certifying copies— for every hundred words	0	2	0

STATEMENT OF OBJECTS AND REASONS.

THE Act for granting exclusive Privileges to Inventors in India, No. XV of 1859, was framed by Sir Barnes Peacock and Sir James Colvile, who, when the question of providing protection for inventors came under consideration in the years 1856-59, had to create both a substantive law and a law of procedure. Instead of following the English law, they took a different course. As regards the substantive law, while following for the most part the main lines of the English law, they did not hesitate to introduce important variations where they thought it desirable to do so. As regards the procedure for obtaining an exclusive privilege, it was altogether different from the English procedure. On petition and leave given to file a specification, and on the specification being filed within the prescribed period, the exclusive privilege sprang into existence by mere operation of law, provided, of course, that the claim was well founded in substance—a matter of which the claimant, as in England, took the risk. The procedure was thus of the simplest description.

During the period, exceeding a quarter of a century, for which the Act of 1859 has been in operation, it has worked on the whole satisfactorily. Difficulties have, however, from time to time arisen, and the increasing resort to the Act has of late brought them into greater prominence; and though these difficulties are not of such a kind as to require, in

the opinion of the Government of India, any alteration which would affect the main principles of the Act, still their removal is very desirable. It has been decided, therefore, after communication with the Secretary of State and the Board of Trade, to introduce this Bill and to incorporate in it certain provisions suggested by the Patents, Designs and Trade Marks Act, 1883 (46 & 47 Vic., c. 57, as amended by 48 & 49 Vic., c. 63).

2. The following are the provisions of the Bill which seem to call for remark :—

(*1*) *Section 3*.—The Bill is divided into two Parts, the one relating to Inventions and the other to Designs. The former Part reproduces the Act of 1859 with certain modifications : the latter Part is an adaptation of the essential provisions of Part III of the English Act of 1883.

(*2*) *Section 4, clause (8)*.—The constitution of an Inventions Office under the superintendence of the Secretary to the Government of India in the Revenue and Agricultural Department, and the transfer to him of the functions exercised under Act XV of 1859 by the Secretary to the Government of India in the Home Department, have been under the consideration of the Government.

(*3*) *Section 4, clause (10)*.—It is proposed to confer the jurisdiction of a High Court under the Bill on the High Courts at Fort William, Madras, Bombay and Allahabad, the Chief Court of the Panjáb and the Recorder of Rangoon.

(*4*) *Section 5, sub-section (3)*.—The petition for leave to file a specification of an invention, presented under section 1 of the Act of 1859, not infrequently furnishes only a vague description of the invention which it is sought to protect, and, when a fuller and clearer description is called for, it is at times only supplied under protest. If such particulars as section 5, sub-section (*3*), of the Bill is intended to enable the Governor General in Council to call for are not forthcoming, the purposes of section 3 of the Act respecting references to experts may be defeated. In authorising drawings to be called for, the Bill follows 46 & 47 Vic., c. 57, section 5, sub-section (*3*).

(*5*) *Section 5, sub-section (4), and section 25*.—A question has recently arisen as to whether a person is precluded under the existing law from proceeding to acquire concurrently a patent under the English Act and an exclusive privilege under the Indian Act ; and it has been held, on the advice of the Hon'ble the Advocate General of Bengal, that he is not so precluded provided he can truly state at the time of applying for leave to file his specification in India that his invention is not publicly used or known in the United Kingdom. It is proposed therefore to provide in the Bill, on the analogy of the provisions of sections 103 and 104 of the English Act, that if an inventor applies for leave to file a specification in India within one year from the date of his application for a patent in England, his invention shall not be deemed to have been publicly used or made publicly known within the meaning of the Indian Act by reason only of the invention having been used, or a description thereof having been published, in any part of India or of the United Kingdom during the interval between his application for the patent and his application for leave to file the specification.

(*6*) *Section 6*.—It is proposed by this section to make it clear that the nature and extent of the enquiry into the merits of an application are matters in the discretion of the Governor General in Council. Successive Advocates General have advised that the existing law imposes upon the Government the duty of making enquiry to an extent which must at times seriously delay the progress of an application without producing any commensurate advantage.

It is proposed to leave to the Government, instead of to the High Court, the settlement of the fee to be paid to an expert to whom an application is referred for inquiry and report.

(*7*) *Section 7*.—This section provides for the case of concurrent applications in respect of contemporaneous inventions, and follows generally the rule obtaining in England (*In re* Dering, 13 Ch. D. 393).

(*8*) *Section 8, sub-section (1)*.—Cases of hardship have occurred owing to there being no provision for extending the period of six months within which section 4 of the Act of 1859 requires a specification to be filed after an order authorising the filing of it has been made. It is proposed therefore, to empower the Governor General in Council, on cause shown to his satisfaction, to extend the period from six to nine months.

(*9*) *Section 8, sub-sections (2), (3) and (4)*.—These sub-sections follow section 17, sub-sections (*2*), (*3*) and (*4*), of the English Act of 1883, and are rendered necessary by the change to be presently noticed which it is proposed to make in the system of levying fees.

(*10*) *Section 11*.—It does not seem necessary to have copies of specifications filed in the offices of the Secretaries to the Governments of Bengal and the North-Western Provinces. The office of the Secretaries to the Government of Bengal

is in Calcutta, where specifications are open to inspection at the office of the Home Department of the Government of India. As regards the North-Western Provinces, communication is much easier now than in 1859, and inconvenience has not, it is believed, been found to result from the law not requiring copies to be sent to and filed by the Secretary to the Government of the Panjáb.

(*11*) *Section 15.*—This section is based on section 25 of the English Act, and empowers the Governor General in Council to refer to the High Court for report an application for an extension of the term of an exclusive privilege. Following the English Act, it also makes an extension of the term for so long a period as fourteen years permissible in exceptional cases only.

(*12*) *Section 17.*—This section follows section 27 of the English Act in making an exclusive privilege have the same effect against the Crown as it has against a subject. But it authorises officers of the Crown to use the invention for the services of the Crown on terms to be before or after the use thereof agreed on with the approval of the Governor General in Council or, in default of agreement, on terms to be settled by the Governor General in Council.

As regards the attaching of conditions to an order authorising the filing of a specification by a public servant, it seems to be fair and just to adopt such reasonable precautions as will prevent him from using to the prejudice of the Government experience acquired in the course of his employment.

(*13*) *Section 24.*—Under section 13 of the English Act of 1883, patents must be dated and sealed as of the day of the application, and under sections 8, 9 and 12 of that Act as amended by 48 & 49 Vic., c. 63, a period of nineteen months, or even a longer period, may elapse between the application for, and the sealing of, the patent. If, therefore, section 20 of the Indian Act of 1859, which limits to twelve months from the date of the patent the time for applying to the Governor General in Council for leave to file a specification of an invention patented in England, is literally construed, it may have the effect of precluding an inventor from securing an exclusive privilege in India. In order to avert the injustice or disappointment which may thus be the result of working section 20 of the Indian Act in connection with the English Act, it is proposed to permit the holder of a patent obtained in England to apply to the Governor General in Council within twelve months from the date on which the patent was actually sealed. The date of actual sealing stated in the application can be verified by reference to the Official Journal of the Patent Office.

(*14*) *Section 26.*—This section covers the Protection of Inventions Act, XVI of 1883, which is scheduled for repeal. But it is proposed to protect inventions not from the date of the opening of an exhibition but from the date of their admission into the exhibition. The English Act is about to be amended in this respect.

(*15*) *Section 28.*—It is proposed, on the advice of the Board of Trade, to abolish the rule of section 20 of the Act of 1859, that, where a patent for an invention has been obtained in the United Kingdom, an exclusive privilege in respect of the invention in India is not to extend beyond the term granted by the patent.

(*16*) *Section 42.*—This section reproduces the substance of section 22 of the English Act, and provides for the grant of compulsory licenses where an inventor who has acquired an exclusive privilege does not make his invention accessible.

(*17*) *Section 45.*—This section and the fourth schedule are based on section 24 and the second schedule of the English Act, and on the first schedule to the Patent Rules, 1883, made by the Board of Trade under the Act. Light fees are proposed to be levied in respect of applications for leave to file specifications and in respect of the filing of specifications, and increasingly heavy fees periodically in respect of the continuance of an exclusive privilege. Under section 8 of the Bill an exclusive privilege will cease if any fee in respect of its continuance is not paid within the time limited for the payment.

(*18*) Part II of the Bill, relating to Designs, is, as already stated, a mere adaptation of Part III of the English Act of 1883. It extends from three to five years the period during which copyright in a design is to continue.

The 7th January, 1887. ANDREW R. SCOBLE.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

The following Report of the Select Committee on the Bill to amend the Indian Companies Act, 1882, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 7th January, 1887 :—

WE, the undersigned, Members of the Select Committee to which the Bill to amend the Indian Companies Act, 1882, was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report.

From Secretary to Chief Commissioner, Assam, No. 1657, dated 14th August, 1886 [Paper No. 1].
From Registrar, High Court, Calcutta, No. 2097, dated 25th August, 1886 [Paper No. 2].
From Secretary for Berar to Resident, Hyderabad, No. 290 G., dated 25th August, 1886 [Paper No. 3].
From Under Secretary to Chief Commissioner, Central Provinces, No. 3980—233, dated 31st August, 1886 [Paper No. 4].
From Secretary to Chief Commissioner, Burma, No. 810—22 L., dated 31st August, 1886 [Paper No. 5].
From Chief Commissioner, Ajmere-Merwara, No. 1055—690-II, dated 14th September, 1886 [Paper No. 6].
From Secretary to Chief Commissioner, Coorg, No. 1670—3256, dated 14th September, 1886 [Paper No. 7].
From Chief Secretary to Government, Madras, No. 2546, dated 23rd September, 1886, and enclosures [Papers No. 8].
From Secretary to Government, North-Western Provinces and Oudh, No. 767—VII—328-10, dated 2nd October, 1886 [Paper No. 9].
From Acting Under Secretary to Government, Bombay, No. 5813, dated 11th October, 1886, and enclosures [Papers No. 10].
Endorsement by Acting Chief Secretary to Government, Madras, No. 2863, dated 23rd October, 1886, and enclosures [Papers No. 11].
From Chief Secretary to Government, Bengal, No. 3322 J., dated 19th November, 1886, and enclosures [Papers No. 12].

2. Having regard to the priority which it is proposed by the Indian Bankruptcy Bill to give in express terms to fiscal debts due from a bankrupt to the Crown, we deem it desirable to give priority in similar terms to like debts due to the Crown from a Company which is being wound up. This saving may not be absolutely necessary in the case of debts due to the Crown (L. R. 9 Ch. D. 469 and 5 Bom. H. C. R. 23) ; but it is proposed, as in the Bankruptcy Bill, to give to rates and taxes payable to local authorities the same priority as to Crown debts, and in the case of some at least of those rates and taxes an express declaration of their priority will be necessary.

3. The salaries of clerks and servants being paid monthly in this country, we consider it will be sufficient to give priority to those salaries for the same time, namely, two months, as priority is given to wages of labourers and workmen by the Companies Act, 1883 (46 & 47 Vic., c. 28). But we agree with the Bengal Chamber of Commerce, the Calcutta Trades Association and other authorities that in this country it is proper to give priority to the salary of a clerk or servant for a larger sum than in England, and we have proposed to raise to Rs. 1,000 the limit up to which the salary of a clerk or servant is to have priority.

As regards the priority to be given to the wages of labourers and workmen, we propose to follow the Companies Act, 1883, in limiting it to wages in respect of services rendered during the two months before the commencement of the winding up.

4. The publication ordered by the Council has been made as follows :—

In English.

Gazette.	*Date.*
Gazette of India	7th, 14th and 31st July, 1886.
Fort Saint George Gazette	6th August, 1886.
Bombay Government Gazette	22nd July, 1886.
Calcutta Gazette	28th July, and 4th and 11th August, 1886.
North-Western Provinces and Oudh Government Gazette	24th and 31st July, and 7th August, 1886.
Punjab Government Gazette	22nd and 29th July, and 5th August, 1886.
Central Provinces Gazette	24th and 31st July, and 7th August, 1886.
Burma Gazette	7th, 14th and 21st August, 1886.
Assam Gazette	7th, 14th and 28th August, 1886.
Coorg District Gazette	1st September, 1886.

In the Vernaculars.

Province.	*Language.*	*Date.*
Bombay	Maráthi	19th August, 1886.
	Gujaráthi	19th August, 1886.
Bengal	Bengali	24th and 31st August, 1886.
	Hindi	2nd, 14th, 21st and 28th September, 1886.
	Uriya	2nd, 14th, 21st and 28th September, 1886.
North-Western Provinces and Oudh	Urdu	21st and 28th August, and 4th September, 1886.
Central Provinces	Maráthi	1st, 8th and 15th September, 1886.
Burma	Burmese	4th, 11th and 18th September, 1886.

5. We are of opinion that the Bill should be re-published, and that it should not be further proceeded with till the expiration of one month from the date of the presentation of this Report.

ANDREW R. SCOBLE.
J. B. PEILE.
W. W. HUNTER.

The 7th January, 1887.

No. II.

A Bill to amend the Indian Companies Act, 1882.

VI of 1882. WHEREAS it is expedient to amend the Indian Companies Act, 1882, in manner hereinafter appearing; It is hereby enacted as follows:—

VI of 1882. Insertion of new section after section 200. 1. After section 200 of the Indian Companies Act, 1882, the following section shall be inserted, namely:—

[46 & 47 Vic., c. 28, s. 4.] Priority of debts. "200A. (1) In the distribution of the assets of any company being wound up under this Act, there shall be paid in priority to all other debts—

[Indian Bankruptcy Bill, s. 33, sub-section (1), cls. (a), (b) and (c): 55 Law J. Rep. Q. B. 288.] "(a) all revenue, taxes, cesses and rates, whether payable to Her Majesty or to a local authority, due from the company at the date of the commencement of the winding-up, and having become due and payable within the twelve months next before that date;

"(b) all wages or salary of any clerk or servant in respect of services rendered to the company within the two months next before the commencement of the winding-up, not exceeding one thousand rupees for each clerk or servant; and

"(c) all wages of any labourer or workman, not exceeding five hundred rupees for each, whether payable for time or piece-work, in respect of services rendered to the company within the two months next before the commencement of the winding-up.

"(2) The foregoing debts shall rank equally among themselves, and shall be paid in full, unless the assets of the company are insufficient to meet them, in which case they shall abate in equal proportions among themselves.

"(3) Subject to the retention of such sums as may be necessary for the cost of administration or otherwise, the liquidator or official liquidator shall discharge the foregoing debts forthwith, so far as the assets of the company are and will be sufficient to meet them, as and when the assets come into the hands of the liquidator or official liquidator." [46 & 47 Vic., c. 28, s. 6.]

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY JUNE 2, 1887.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 25th May, 1887:

NO. 5 OF 1887.

A Bill to amend the Indian Stamp Act, 1879.

I of 1879. WHEREAS it is expedient to amend certain provisions of the Indian Stamp Act, 1879, relating to policies of insurance;

It is hereby enacted as follows:

Amendment of definition of "policy of insurance".

1. For clause (15) of section 3 of that Act the following shall be substituted, namely:

"Policy of insurance."

"(15) 'Policy of insurance' means any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event, and it includes any writing evidencing the renewal of any such instrument for the purpose of keeping the engagement in force:

"It includes a life-policy."

New article substituted for article 49 of Schedule I.

2. For article 49 of the first schedule to that Act the following shall be substituted, namely:

Description of Instrument		Proper Stamp-duty. If drawn singly.	Proper Stamp-duty. If drawn in duplicate, for each part.
		Rs. A. P.	Rs. A. P.
49. POLICY OF INSURANCE. See *Exemption, Schedule II [No. 14 (a)]*.	(*a*) In the case of sea-insurance—		
	When the amount insured does not exceed Rs. 1,000	0 4 0	0 2 0
	And for every further sum of Rs. 1,000 or part thereof in excess of 1,000	0 4 0	0 2 0
	(*b*) In the case of fire-insurance—		
	i. In respect of an original policy for a month or any shorter term—		
	When the amount insured does not exceed Rs. 1,000	0 2 0	0 1 0
	And for every further sum of Rs. 1,000 or part thereof in excess of 1,000	0 2 0	0 1 0
	ii. In respect of an original policy for more than one month but not more than three months—		
	When the amount insured does not exceed Rs. 1,000	0 3 0	0 2 0

Description of Instrument.		Proper Stamp-duty. If drawn singly.	Proper Stamp-duty. If drawn in duplicate, for each part.
		Rs. A. P.	Rs. A. P.
49. POLICY OF INSURANCE—*concld.*	And for every further sum of Rs. 1,000 or part thereof in excess of . Rs. 1,000	0 3 0	0 2 0
	iii. In respect of an original policy for more than three months but not more than six months— When the amount insured does not exceed . Rs. 1,000	0 4 0	0 3 0
	And for every further sum of Rs. 1,000 or part thereof in excess of . 1,000	0 4 0	0 3 0
	iv. In respect of an original policy for a year or any longer term— When the amount insured does not exceed . Rs. 1,000	0 6 0	0 3 0
	And for every further sum of Rs. 1,000 or part thereof in excess of . 1,000	0 6 0	0 3 0
	v. In respect of renewing, for the purpose of keeping in force, a policy granted for any shorter term than one year	The same duty as would be payable in respect of an original policy for the amount and term to which the renewal extends: Provided that duty shall not be payable in respect of the renewal when the duty already paid in respect of the original policy, or in respect of the original policy and previous renewal thereof, is equal to or exceeds the duty which would be payable in respect of an original policy for the amount aforesaid for a year, and that, where the duty payable in respect of the renewal would, when added to the duty already paid in respect of the original policy, or in respect of the original policy and previous renewal thereof, exceed the duty payable in respect of an original policy for the amount aforesaid for a year, the duty payable in respect of the renewal shall not exceed the difference between the duty already paid and the duty payable in respect of an original policy for the amount aforesaid for a year.	
		If drawn singly.	If drawn in duplicate, for each part.
		Rs. A. P.	Rs. A. P.
	(c) In the case of any other insurance— When the amount insured does not exceed . Rs. 1,000	0 6 0	0 3 0
	And for every further sum of Rs. 1,000 or part thereof in excess of . 1,000	0 6 0	0 3 0

STATEMENT OF OBJECTS AND REASONS.

IN the Resolution of the Department of Finance and Commerce, No. 1046, dated the 5th March, 1886, published in the *Gazette of India* of 6th March, 1886, opinion was invited on certain proposals of the Government of Bengal for the reduction of the stamp-duty payable on policies of fire-insurance for short terms.

Those proposals having been generally accepted as fair and equitable, this Bill has been prepared for the purpose of giving effect to them.

2. One Insurance Company, while recommending the reduction of stamp-duty on annual fire-policies, proposes to solve the difficulty of levying duty on renewals of fire-policies for short terms by prohibiting such renewals altogether, and asserts that this course would be productive of no inconvenience to the public, and of no appreciable inconvenience to Insurance Companies. The Government of India is not prepared to adopt this proposal unless it is assured by the almost unanimous opinion of those engaged in fire-insurance business that the prohibition of renewals would not lead to inconvenience. If such an assurance is forthcoming, it will be considered by the Select Committee to which this Bill is to be referred.

3. It is proposed so to amend the definition of "policy of insurance" as to make section 65 of the Indian Stamp Act, 1879, clearly applicable as well to contracts of renewal or continuance of insurance as to original policies.

4. Insurance Companies are invited to state, in their opinions on the Bill, the mode which will be most convenient to them of paying stamp-duty on renewals of policies of insurance.

The 25th May, 1887. A. COLVIN.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY JUNE 16, 1887.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 8th June, 1887:

NO. 6 OF 1887.

A Bill for the Protection of Game.

WHEREAS municipal authorities in different parts of British India have from time to time made rules for the protection of game;

And whereas it is expedient that Local Governments and cantonment-authorities as well as municipal authorities should be empowered to make such rules;

It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Game Protection Act, 1887.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force at once.

Definitions.

2. In this Act—

(*1*) "municipal authority" means the commissioners, committee, board, council or person having authority over a municipality under any enactment for the time being in force:

(*2*) "cantonment-authority" means a cantonment-committee or, in the case of a cantonment for which such a committee has not been constituted, the commanding officer of the cantonment: and

(*3*) "authority" means Local Government, municipal authority or cantonment-authority, as the case may be.

Power to make rules.

3. (*1*) The Local Government with respect to any municipality or cantonment within the territories under its administration, or the municipal authority or cantonment-authority of any municipality or cantonment, with the previous sanction of the Local Government, may from time to time make rules—

(*a*) defining the word "game" for the purposes of this Act in its application to the municipality or cantonment;

(*b*) defining for those purposes the breeding season of any kind of game; and

(*c*) prohibiting, absolutely or subject to conditions, the possession or sale within the municipality or cantonment of any kind of game during its breeding season, or the importation into the municipality or cantonment of the fur or plumage of any kind of game during such season.

(*2*) The authority making a rule under clause (*c*) of sub-section (*1*) may direct that a breach of it shall be punishable with fine which may extend to five rupees for every head of game in respect of which the breach of the rule has been committed. [1 & 2 Wm. IV, c. 32, s. 4.]

(*3*) A Magistrate shall not take cognizance of a breach of any such rule except on the complaint of the authority which made the rule, or of some person authorised by that authority in this behalf.

STATEMENT OF OBJECTS AND REASONS.

FOR many years past the committees of certain municipalities in Northern India have, for the purpose of preserving game from destruction, prescribed close seasons during which the possession or sale of game within municipal limits is prohibited.

2. This measure has to some extent attained its object, but its legality is open to question.

3. In these circumstances it is proposed to place beyond doubt the power of municipal committees to take such action and to confer similar powers on cantonment-authorities with respect to cantonments, and on Local Governments with respect to any municipality or cantonment within the territories respectively administered by them.

The 8th June, 1887. J. B. PEILE.

S. HARVEY JAMES,
Offg. Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY AUGUST 4, 1887.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend the law relating to the Tenancy of Land in the Punjab was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 27th July, 1887:

WE, the undersigned, members of the Select Committee to which the Bill to amend the law relating to the Tenancy of Land in the Punjab was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report with the Bill as revised by us annexed thereto.

Memorial from Committee of Landholders, Hoshiarpur [Paper No. 1].
From the Government of the Punjab, No. 44, dated 25th February, 1887, and seventy-nine enclosures [Papers No. 2].
From the Government of the Punjab, No. 412, dated 2nd July, 1887, and enclosures [Papers No. 3].

2. In January last the Government of the Punjab appointed a Committee under the presidency of Colonel Sir William Davies to sit at Lahore and report on the Bill with reference to the very numerous and voluminous opinions which had been submitted to that Government. This Committee, which we will hereafter refer to as the Lahore Committee, submitted a report which has been most useful to us in revising the Bill. Having preliminarily considered the Bill in Calcutta with Sir William Davies, we had the Bill as amended by us there re-printed, and we have now considered and revised this re-print in Simla with the Hon'ble Colonel Wace, who succeeded Sir William Davies in May last as Senior Financial Commissioner of the Punjab and has since been in charge of the Bill.

3. Where sections or Chapters are cited in italics at the commencement of any of the following paragraphs, they are, where the contrary is not stated, the sections and Chapters of the Bill as introduced.

4. As regards the functions of Revenue-officers in matters relating to the tenancy of land, it has been our object in revising the Bill to adhere, as closely as circumstances admit, to the provisions of Chapter V of the Punjab Courts Act, 1884, and we have incorporated in the Bill the greater part of that Chapter, thus making this Bill less dependent than it was on the Land-revenue Bill.

5. *Section 1.*—We propose to exclude the Hazára district from the operation of the Act. The law respecting the tenancy of land in that district is contained in the Hazára Tenancy Regulations, III of 1873 and III of 1874, and, as it differs in some respects from that in force in other parts of the Punjab, we recommend that it be dealt with, as before, by Regulation under the Statute 33 Victoria, Chapter 3.

6. *Section 2, sub-section (1) (section 2 of Bill as revised).*—We have, on the suggestion of the Lahore Committee, proposed to repeal, as regards the Punjab, sections 40 to 43 (both inclusive) of the Northern India Canal and Drainage Act, 1873. Those sections were designed to meet a state of things in which the rent of land did not, as it will under this Bill, vary directly with the land-revenue.

Sections 22 and 27 of the Bill as revised by us will effect the object intended to be attained by those sections of the Canal and Drainage Act.

7. *Section 2, sub-section (2).*—We have removed this sub-section, which would have applied the provisions of the proposed Act to all pending proceedings. We are of opinion that section 6 of the General Clauses Act, 1868, sufficiently provides for such proceedings.

8. *Section 3 of Bill as revised.*—This section follows generally the provisions of section 2 of the Punjab Tenancy Act, 1868 (as amended by section 21 of the Punjab Land-revenue Act, 1871), section 4 of the Oudh Rent Act, 1886, and section 29 of the Bengal Tenancy Act, 1885. In drafting it we have carefully considered the suggestions of the Chief Court and of the Lahore Committee.

9. *Section 3 (section 4 of Bill as revised).*—We have, on the suggestion of the Lahore Committee, so expressed the definition of "land" as to exclude land occupied as sites of buildings in towns or villages.

Among "improvements" we have classed the planting of trees, and we have set forth in detail some of the ordinary operations of husbandry which are not to be deemed to be improvements.

10. *Section 4, sub-section (1), clause (a) (section 5, sub-section (1), clause (a), of Bill as revised).*—The corresponding clause of the Act of 1868 has in many cases been construed as giving a right of occupancy to any tenant who, with his predecessors, whether in the direct or indirect line, has held for three generations. We think this construction should be confirmed, and have so drafted the clause as to secure to tenants who have fulfilled its conditions before the commencement of the proposed Act the same rights as are secured to tenants who had fulfilled the conditions of the clause before the passing of the Act of 1868. We have, however, required the occupancy under the clause to have lasted for not less than twenty years.

We have added a sub-section enlarging, in accordance with the construction applied by the Courts to section 3 of the Act of 1868, the interpretation of terms denoting relationship which are used in this clause.

11. *Section 4, sub-section (1), clause (c) (section 5, sub-section (1), clause (c), of Bill as revised).*—We have so modified the expression of this clause as to make it clear that the right of occupancy acquired under it is confined to land occupied by the tenant in 1868 and continuously since that date. This modification follows the Civil Judgment of the Chief Court, No. 94 of 1880.

12. *Section 4, sub-sections (2) and (3) (section 5, sub-section (2), of Bill as revised).*—We have omitted sub-section (3), and, objection having been taken to the absolute presumption proposed to be created in favour of the tenant by sub-section (2), we have so modified that sub-section as only to permit, instead of requiring, Revenue Courts to presume in favour of the tenant.

13. *Section 9 (section 10 of Bill as revised).*—We have, on the suggestion of the Chief Court, so expressed this section as to confine its operation to claims arising under Chapter II of the Bill.

14. *Sections 10, 11 and 12.*—We have omitted these sections. By the Bill as revised, rents are, save as provided by section 27 and section 62 of that Bill, to be enhanced or reduced by Revenue Courts according to the ordinary procedure applicable to those Courts or the special procedure authorised by section 93, and, save as provided by section 3, sub-section (*1*), clause (*a*), rents are to be commuted only by private contract between landlord and tenant. Special provision regarding the conversion of cash-rents in gross is not required, because the ascertainment of the component parts of such a rent would be a necessary operation in the enhancement or reduction of the rent of a tenant.

15. *Section 14 of Bill as revised.*—This section follows section 127 of the Oudh Rent Act, 1886.

16. *Section 15 of Bill as revised.*—We are advised that such a saving with respect to local custom and special contract as is contained in section 106 of the North-Western Provinces Rent Act, 1881, is unnecessary for the Punjab.

17. *Section 15 (section 22 of Bill as revised).*—We have revised this section with reference to the following extract from the report of the Lahore Committee, in which the Local Government expressed its concurrence:—

"In the opinions submitted by selected officers there is evidence of a strong and general feeling, not only among the landlords of the Province but also among the officers themselves, that the maximum rates fixed in section 15 (*1*) as those above which the rent of the various classes of tenants cannot be enhanced are too low. With regard to the highest class of tenants, those belonging to the class specified in section 4 (*1*) (*a*), we cannot agree in this opinion. The high status of tenants of this class was well described in the debate on Act XXVIII of 1868 by the Hon'ble Mr. (now Sir John) Strachey, who pointed out that they had been to all intents and purposes proprietors, and saw no reason why they should not have been considered under-proprietors as they would have been in Oudh, with complete rights of property in their holdings. Considering that tenants of this class have held their land for three generations on terms of almost absolute equality with the landowners, and without paying any real rent at all, we cannot agree that the maximum rate proposed for enhancement of rent should be raised in their case, and we recommend that it should be left at two annas per rupee of the land-revenue as in the Bill. In view, however, of the greatly inferior position of tenants of the remaining classes, and of the generally expressed opinion that the limit placed on enhancement of rent is in their case too low, we recommend that the maximum be raised in the case of tenants belonging to any of the classes specified in clauses (*b*), (*c*) and (*d*) of sub-section (*1*) of section 4 to six annas per rupee, and in the case of tenants of other classes to twelve annas per rupee, of the amount of the land-revenue."

18. *Section 17 (section 23 of Bill as revised).*—We have omitted the greater part of this section. We agree with the Lahore Committee in considering that such interference with decrees as was contemplated by the fourth clause of sub-section (*1*) should be left to the discretion of the Courts themselves.

19. *Section 25 (section 49 of Bill as revised).*—In drafting this section we have had regard to the provisions of section 156 of the Bengal Tenancy Act, 1885.

20. *Section 24 of Bill as revised.*—Following the law in force in the North-Western Provinces and the Central Provinces, we have provided that an interval of ten years is to elapse between successive suits for enhancement.

21. *Section 25 of Bill as revised.*—We have, on the recommendation of the Lahore Committee, inserted this section for the purpose of shewing clearly that, subject to the provisions of the Act, it is within the discretion of the Court, in dealing with claims for enhancement or reduction of rent, to fix the rent at such amount as it considers fair and equitable.

22. *Section 27 of Bill as revised.*—We have inserted this section in order to make it clear that, where the rent of a tenant is fixed in terms of the land-revenue, a Revenue-officer is to have the same power to alter that rent as if he were dealing with land-revenue payable by a land-owner.

23. *Section 28 of Bill as revised.*—Under the existing law claims to alter rent on the ground of alteration of area are treated as if they were claims for enhancement or reduction of rent. This course does not appear to us to be convenient, and we have therefore dealt with the subject separately, following the precedent of section 52 of the Bengal Tenancy Act, 1885.

24. *Sections 31 and 32 of Bill as revised.*—We consider that the provisions respecting deposit of rent will be placed more appropriately here than in the Land-revenue Bill.

25. *Section 33 of Bill as revised.*—This section, which follows section 22 of the Central Provinces Tenancy Act, 1883, takes the place of section 108 of the Land-revenue Bill.

26. *Section 34 of Bill as revised.*—This section, which was section 138 of the Land-revenue Bill, has been modified in deference to the following remarks of the Lahore Committee :—

"We desire to point out that, owing to the limited meaning which the word 'rent' bears in this Act, it appears necessary to add after the words 'rent of' in section 138 (*1*) the words 'or other sum payable in respect of.' For example, a landowner might agree to alienate to another person, temporarily or permanently, a sub-proprietary tenure in a part of his holding on an annual payment of a sum calculated at 1¼ times the existing assessment. At a subsequent revision of assessment the revenue payable on the land might be so enhanced as to exceed the lump sum to which the landowner would by his agreement be entitled. It will be necessary to give the landowner in a case of this nature the option of re-opening his agreement to the extent necessitated by the enhancement of revenue, but owing to the limited meaning of the words 'rent' and 'tenant' the section as now drafted does not give him this option."

27. *Section 38 of Bill as revised.*—We have, on the recommendation of the Lahore Committee, inserted this section for the purpose of declaring what constitutes such an abandonment of his holding by an occupancy-tenant as will determine his right of occupancy.

28. *Sections 24-30 (39-48 of Bill as revised).*—We have re-cast the provisions of the Bill respecting ejectment, adhering in some respects more closely to the provisions of the existing law of the Punjab and adding to it some provisions of the Oudh Rent Act, 1886.

29. *Sections 31 and 32 (sections 50 and 51 of Bill as revised).*—We have suggested one year as the period within which a suit may be instituted by a tenant for the recovery of land of which he has been wrongfully dispossessed, and, in view of the provision now made for such suits, we think it will be convenient to debar tenants from proceeding under section 9 of the Specific Relief Act, 1877.

In making section 50 of the Bill as revised applicable to tenants ejected under section 29 (section 45 of Bill as revised) we have restored the second paragraph of section 26 of the Act of 1868.

30. *Section 33.*—We have omitted this section on the recommendation of the Lahore Committee.

31. *Section 34 (section 53 of Bill as revised).*—We have made this section apply, as section 34 of the Act of 1868 applies, only to those tenants who have a right of occupancy claimable under section 5.

In section 56 of the Bill as revised we have made provision with respect to the title of other occupancy-tenants to transfer their rights.

32. *Sections 53 and 54 of Bill as revised.*—We have, on the recommendation of the Lahore Committee, secured to the landlord the privilege of pre-emption in case of sale of a right of occupancy under section 5 in execution of a decree or order, and required a mortgagee of any such right to give notice to the landlord of an intention to foreclose.

33. *Section 35, sub-section (2) (section 58 of Bill as revised).*—We have restored the provisions of sections 32 and 33 of the Act of 1868 with respect to sub-letting by occupancy-tenants, providing, however, that the term of a sub-lease is not to exceed seven years.

34. *Section 37 (section 59 of Bill as revised).*—We have restored the provisions of section 36 of the Act of 1868, providing, however, in accordance with the custom of the Province, that, failing male lineal descendants in the male line of descent, the widow, if any, of the deceased tenant shall succeed, for her lifetime or till the occurrence of one or other of certain specified events, to the right of occupancy in preference to his collateral relatives.

35. By sections 61 and 62 of Bill as revised we have provided for the power of the landlord to make an improvement on the tenancy of a tenant having a right of occupancy and to procure the enhancement of the tenant's rent to an appropriate extent in consideration of the improvement. In order that this power may not be exercised to the prejudice of tenants, we have also provided that the permission of the Collector shall be necessary to the making of an improvement by a landlord and that such permission shall be granted in accordance with rules to be made by the Local Government with the previous sanction of the Governor-General in Council.

36. *Section 43 (section 72 of Bill as revised).*—We have assimilated the terms of this section to those of section 27 of the Oudh Rent Act, 1886.

37. *Section 46.*—This section has become sub-section (2) of section 3 of the Bill as revised.

38. *Section 47 (section 69 of Bill as revised).*—We concur with the Lahore Committee in considering that land held with a right of occupancy should, as being already sufficiently protected by the Bill, be excluded from the operation of this section.

We have retained five years' rent as the maximum limit of compensation under the section, but, seeing that there are many circumstances besides the duration of the tenant's occupation which must be considered, we have left it to the Revenue-officer to assess the compensation within that limit according to the merits of each case.

For the proviso in the original Bill we have substituted a proviso to the effect that a tenant who is a joint owner of land to which the section applies shall not be entitled to compensation under the section for ejectment from any part of the land.

39. *Chapter VII of Bill as revised.*—This Chapter re-produces the greater part of Chapter V of the Punjab Courts Act, 1884, and some of the provisions of Chapter II of the Land-revenue Bill as introduced.

40. Among the provisions of the Chapter which seem to call for remark are the following :—

(*a*) *Section 86.*—We have removed the restrictions on the appearance of legal practitioners before Revenue-officers as such. As regards Revenue Courts, the position of legal practitioners remains as it is under the existing law.

(*b*) *Section 93.*—This section follows section 75 of the North-Western Provinces Land-revenue Act, 1873.

(*c*) *Section 94.*—This section provides that nothing in section 424 or section 433 of the Code of Civil Procedure, or in section 36 of the Punjab Municipal Act, 1884, is to be construed as applying to a suit cognizable by a Revenue Court.

(*d*) *Section 95.*—This section re-produces sections 149 and 152 of the Bengal Tenancy Act, 1885.

(*e*) *Section 97.*—This section is new and prohibits the imprisonment of a tenant in execution of a decree for an arrear of rent during the continuance of his occupancy.

(*f*) *Section 99.*—This section follows section 205 of the North-Western Provinces Rent Act, 1881.

(*g*) *Section 100.*—This section, which was section 11 of the Land-revenue Bill as introduced, has been amended in accordance with suggestions made by the Chief Court.

(*h*) *Section 106.*—By this section we have proposed to empower the Financial Commissioner to make rules for determining the number and amount of the instalments, and the times, by and at which rent is to be paid, and to prescribe the periods during which, in proceedings held under the proposed Act, a Revenue-officer or Revenue Court is not, except for reasons of urgency to be recorded, to issue any process of arrest against a tenant or against a landowner who cultivates his own land.

41. The publication ordered by the Council has been made as follows :

In English.

Gazette.	*Date.*
Gazette of India	26th June, and 3rd and 10th July, 1886.
Punjab Government Gazette	1st, 8th and 15th July, 1886.

In the Vernacular.

Province.	*Language.*	*Date.*
Punjab	Urdu ...	22nd and 29th July, and 5th August, 1886.

42. We think that the measure has been so altered as to require re-publication, and we recommend that it be re-published, with this Report, for general information, in the Gazette of India in English and in the Punjab Government Gazette in English and Urdu.

E. G. WACE.
A. COLVIN.
ANDREW R. SCOBLE.
J. B. PEILE.
J. W. QUINTON.

The 27th July, 1887.

No. II.

THE PUNJAB TENANCY BILL.

CONTENTS.

CHAPTER I.

PRELIMINARY.

CHAPTER II.

RIGHT OF OCCUPANCY.

CHAPTER III.

RENT.

Rents generally.

Produce-rents.

Cash-rents paid by Tenants having Right of Occupancy.

General Provisions relating to Suits for Enhancement or Reduction of Rent.

Adjustment of Rents expressed in terms of the Land-revenue.

Alteration of Rent on Alteration of Area.

Remission.

Deposits.

Recovery of Rent from attached Produce.

Leases for period exceeding term of assessment of land-revenue.

CHAPTER IV.

RELINQUISHMENT, ABANDONMENT AND EJECTMENT.

Relinquishment.

Abandonment.

Ejectment.

LIABILITY TO EJECTMENT.

PROCEDURE ON EJECTMENT.

GENERAL PROVISIONS RESPECTING EJECTMENT.

RELIEF FOR WRONGFUL DISPOSSESSION.

Power to vary Dates prescribed by this Chapter.

The Punjab Tenancy Bill.
(Chapter I.—Preliminary.—Sections 1-4.)

A Bill to amend the Law relating to the Tenancy of Land in the Punjab.

WHEREAS it is expedient to amend the law relating to the tenancy of land in the Punjab; It is hereby enacted as follows:

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Punjab Tenancy Act, 1887.

(*2*) It extends to the whole of the territories (including the pargana of Spiti) for the time being administered by the Lieutenant-Governor of the Punjab, except the Hazára district; and

(*3*) It shall come into force on such date as the Local Government, with the previous sanction of the Governor-General in Council, may by notification appoint in this behalf.

(*4*) Any power conferred by this Act on the Financial Commissioner to make rules, and on the Local Government to sanction them, may be exercised at any time after the passing of this Act, but a rule so made shall not take effect till the commencement of this Act.

Repeal.

2. The enactments mentioned in the schedule are repealed to the extent specified in the third column thereof.

Operation of records-of-rights and future contracts.

3. (*1*) Nothing in this Act shall be construed to affect the operation of any entry made with respect to any of the following matters before the eighteenth day of November, 1871, and attested by the proper officer, in the record of a regular settlement sanctioned by the Local Government, namely:

(*a*) the enhancement or abatement of the rent of a tenant having a right of occupancy, or the commutation of rent in kind into rent in money or of rent in money into rent in kind, or the taking of rent in kind by division or appraisement of the produce or other procedure of a like nature, or

(*b*) the letting or under-letting of land in which there is a right of occupancy by the tenant having that right, or the alienation of or succession to land in which such a right subsists,

and every such entry with respect to any such matter shall be deemed to be an agreement between the landlord and the tenant.

(*2*) An entry in any record-of-rights providing—

(*a*) that a landlord may prevent a tenant from making, or eject him for making, such improvements on his tenancy as he is entitled to make under this Act, or

(*b*) that a tenant ejected from his tenancy shall not be entitled to compensation for improvements or for disturbance in any case in which he would under this Act be entitled to compensation therefor, or

(*c*) that a landlord may eject a tenant otherwise than in accordance with the provisions of this Act,

shall be void.

(*3*) Nothing in any contract made between a landlord and a tenant after the passing of this Act shall—

(*a*) override any of the provisions of this Act with respect to the acquisition of a right of occupancy, or the reduction, remission or suspension of rent, or the enhancement of the rent of a tenant having a right of occupancy under section 5, section 6 or section 7, or

(*b*) take away or limit the right of a tenant, as determined by this Act, to make improvements and claim compensation therefor, or, where compensation for disturbance can be claimed under this Act, to claim such compensation, or

(*c*) entitle a landlord to eject a tenant otherwise than in accordance with the provisions of this Act.

(*4*) Nothing in clause (*a*) of the last foregoing sub-section shall apply to a contract by which a tenant binds himself to pay an enhanced rent in consideration of an improvement which has been or is to be made in respect of his tenancy by, or at the expense of, his landlord, and to the benefit of which the tenant is not otherwise entitled.

Definitions.

4. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "land" means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes the sites of buildings on such land:

(*2*) "pay", with its grammatical variations and cognate expressions, includes, when used with reference to rent, "deliver" and "render", with their grammatical variations and cognate expressions:

(*3*) "tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that other person; but it does not include—

(*a*) an inferior landowner, or

(*b*) a mortgagee of the rights of a landowner, or

(*c*) a person to whom a holding has been transferred, or an estate or holding has been let in farm, under the Punjab Land-revenue Act, 1887, for the recovery of an arrear of land-revenue or of a sum recoverable as such an arrear, or

(*d*) a person who takes from the Government a lease of unoccupied land for the purpose of subletting it:

(*4*) "landlord" means a person under whom a tenant holds land, and to whom the tenant is, or but for a special contract would be, liable to pay rent for that land:

(*5*) "tenant" and "landlord" include the predecessors and successors in interest of a tenant and landlord respectively:

(*6*) "rent" means whatever is payable to a landlord in money, kind or service by a tenant on account of the use or occupation of land held by him:

(*7*) "arrear of rent" means rent which remains unpaid after the date on which it becomes payable:

The Punjab Tenancy Bill.
(Chapter II.—Right of Occupancy.—Section 5.)

(8) "tenancy" means a parcel of land held by a tenant of a landlord under one lease or one set of conditions:

(9) "estate" means any area—

(a) for which a separate record-of-rights has been made; or

(b) which has been separately assessed to land-revenue, or would have been so assessed if the land-revenue had not been released, compounded for or redeemed; or

(c) which the Local Government may, by general rule or special order, declare to be an estate:

(10) "landowner" does not include a tenant or an assignee of land-revenue, but does include a person to whom a holding has been transferred, or an estate or holding has been let in farm, under the Punjab Land-revenue Act, 1887, for the recovery of an arrear of land-revenue or of a sum recoverable as such an arrear, and every other person not hereinbefore in this clause mentioned who is in possession of an estate or any share or portion thereof, or in the enjoyment of any part of the profits of an estate:

(11) "holding" means a share or portion of an estate held by one landowner or jointly by two or more landowners:

(12) "village-officer" means a chief-headman, headman or patwári:

(13) "land-revenue" means land-revenue assessed under any law for the time being in force or assessable under the Punjab Land-revenue Act, 1887, and includes any rate imposed in respect of the increased value of land due to irrigation:

(14) "rates and cesses" means rates and cesses which are primarily payable by landowners, and includes—

f 1878. (a) the local rate, if any, payable under the Punjab Local Rates Act, 1878;

of 1883. (b) the local rate, if any, payable under the Punjab District Boards Act, 1883, and any fee leviable under section 33 of that Act from landowners for the use of or benefits derived from such works as are referred to in section 20, clauses (i) and (j), of that Act;

I of 1873. (c) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873;

(d) the zaildári and village-officers' cesses; and

(e) sums payable on account of village-expenses:

(15) "village-cess" includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service nor imposed by or under any enactment for the time being in force:

(16) "Revenue-officer" or "Revenue Court," in any provision of this Act, means a Revenue-officer or Revenue Court having authority under this Act to discharge the functions of a Revenue-officer or Revenue Court, as the case may be, under that provision:

(17) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the Local Government may by notification appoint for any local area:

(18) "improvement" means, with reference to a tenancy, any work which is suitable to the tenancy and consistent with the conditions on which it is held, by which the value of the tenancy has been and continues to be increased, and which, if not executed on the tenancy, is either executed directly for its benefit, or is, after execution, made directly beneficial to it;

Explanation I.—It includes, among other things,—

(a) the construction of wells and other works for the storage or supply of water for agricultural purposes;

(b) the construction of works for drainage and for protection against floods;

(c) the planting of trees, the reclaiming, enclosing, levelling and terracing of land for agricultural purposes and other works of a like nature;

(d) the erection of buildings required for the more convenient or profitable cultivation of a tenancy; and

(e) the renewal or re-construction of any of the foregoing works, or such alterations therein, or additions thereto, as are not of the nature of mere repairs and as durably increase their value;

But it does not include such clearances, embankments, levellings, enclosures, temporary wells and water-channels as are made by tenants in the ordinary course of cultivation and without any special expenditure, or any other benefit accruing to land from the ordinary operations of husbandry;

Explanation II.—A work which benefits several tenancies may be deemed to be, with respect to each of them, an improvement;

Explanation III.—A work executed by a tenant is not an improvement if it substantially diminishes the value of any other part of his landlord's property:

(19) "jágírdár" includes any person, other than a village-servant, to whom the land-revenue of any land has been assigned in whole or in part by the Government or by an officer of the Government:

(20) "legal practitioner" means any legal practitioner within the meaning of the Legal Practitioners Act, 1879, except a mukhtár: and XVIII 1879.

(21) "notification" means a notification published by authority of the Local Government in the official Gazette.

CHAPTER II.

RIGHT OF OCCUPANCY.

Tenants having right of occupancy.

5. (1) A tenant—

(a) who has before the commencement of this Act occupied land for more than two generations in the male line of descent through a grandfather or grand-uncle and for a period of not less than twenty years and paid no rent in respect of the land beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, or

(b) who having owned land, and having ceased to be landowner thereof otherwise than by forfeiture to the Government or than by any voluntary act, has, since he ceased to be landowner, continuously occupied the land, or

The Punjab Tenancy Bill.
(Chapter II.—Right of Occupancy.—Sections 6-11. Chapter III.—Rent.—Sections 12-15.)

(c) who, in a village or estate in which he settled along with, or was settled by, the founders thereof, occupied land on the twenty-first day of October, 1868, and has continuously occupied the land since that date, or

(d) who is or has been jágírdár of the estate or any part of the estate in which the land occupied by him is situate, and who,—

(i) being such jágírdár, has continuously occupied the land for not less than twenty years, or

(ii) having been such jágírdár, occupied the land while he was jágírdár and has continuously occupied it for not less than twenty years,

shall be deemed to have a right of occupancy in the land so occupied.

(2) If a tenant proves that he has continuously occupied land for thirty years and paid no rent therefor beyond the amount of the land-revenue thereof and the rates and cesses for the time being chargeable thereon, it may be presumed that he has fulfilled the conditions of clause (a) of sub-section (1).

(3) The words in that clause denoting natural relations include relations by adoption or by customary appointment of an heir or by the usage of a religious community.

Right of occupancy of other tenants recorded as having the right before passing of Punjab Tenancy Act, 1868.

6. A tenant recorded in a record-of-rights sanctioned by the Local Government before the twenty-first day of October, 1868, as a tenant having a right of occupancy in land which he has continuously occupied from the time of the preparation of that record, shall be deemed to have a right of occupancy in that land unless the contrary has been established by a decree of a competent Court before the passing of this Act.

Right of occupancy in land taken in exchange.

7. If the tenant has voluntarily exchanged the land, or any portion of the land, formerly occupied by him, for other land belonging to the same landlord, the land taken in exchange shall, for the purposes of this Act, be held to be subject to the same right of occupancy as that to which the land given in exchange would have been subject if the exchange had not taken place.

Establishment of right of occupancy on grounds other than those expressly stated in Act.

8. Nothing in the foregoing sections of this Chapter shall preclude any person from establishing a right of occupancy on any ground other than the grounds specified in those sections.

Right of occupancy not to be acquired by mere lapse of time.

9. No tenant shall acquire a right of occupancy by mere lapse of time.

Right of occupancy not to be acquired by joint owner in land held in joint ownership.

10. In the absence of a custom to the contrary no one of several joint owners of land shall acquire a right of occupancy under this Chapter in land jointly owned by them.

Continuance of existing occupancy-rights.

11. Every tenant who immediately before the commencement of this Act has a right of occupancy in any land shall, when this Act comes into force, have a right of occupancy in that land.

CHAPTER III.

RENT.

Rents generally.

Respective rights of landlord and tenant to produce.

12. (1) The rent for the time being payable in respect of a tenancy shall be the first charge on the produce thereof.

(2) A tenant shall be entitled to tend, cut and harvest the produce of his tenancy in due course of husbandry without any interference on the part of his landlord.

(3) Except where rent is taken by division of the produce, the tenant shall be entitled to the exclusive possession of the produce.

(4) Where rent is taken by division of the produce—

(a) the tenant shall be entitled to the exclusive possession of the whole produce until it is divided ;

(b) the landlord shall be entitled to be present at, and take part in, the division of the produce ; and

(c) when the produce has been divided, the landlord shall be entitled to the possession of his share thereof.

Commutation and alteration of rent.

13. (1) Where rent is taken by any of the following methods, namely :—

(a) by division or appraisement of the produce,

(b) by cash-rates fixed with reference to the nature of the crops grown,

(c) by a cash-rate on a recognised measure of area,

(d) by a cash-rent in gross on the tenancy, or

(e) partly by one of the methods specified in clauses (a), (b) and (c) of this sub-section and partly by another or others of them,

one of those methods shall not be commuted in whole or in part into another without the consent of both landlord and tenant.

(2) In the absence of a decree or order or a valid contract to the contrary, a tenant whose rent is taken by any of the methods specified in clauses (a), (b) and (c) of sub-section (1), or by the method specified in clause (d) of that sub-section, shall not be liable to pay for a tenancy rent at any higher rate, or of a higher amount, as the case may be, than the rate or amount payable in respect of the tenancy for the preceding agricultural year.

Rent payable for land occupied without consent of landlord.

14. Any person in possession of land occupied without the consent of the landlord shall be liable for the rent of that land at the rate payable in the preceding agricultural year, or, if rent was not payable in that year, at such rate as the Court may determine to be fair and equitable.

Collection of rents of undivided property.

15. When two or more persons are landlords of a tenant in respect of the same tenancy—

(a) the tenant shall not be bound to pay part of the rent of his tenancy to one of those persons and part to another ; and

The Punjab Tenancy Bill.
(Chapter III.—Rent.—Sections 16-24.)

(*b*) no one of those persons shall be entitled to sue the tenant separately under this Act unless he is authorised to receive from the tenant the whole of the rent payable by him in respect of the tenancy.

Produce-rents.

Presumption with respect to produce removed before division or appraisement.

16. Where rent is taken by division or appraisement of the produce, if the tenant removes any portion of the produce at such a time or in such a manner as to prevent the due division or appraisement thereof, or deals therewith in a manner contrary to established usage, the produce shall be deemed to have been as full as the fullest crop of the same description on similar land in the neighbourhood for that harvest.

Appointment of referee for division or appraisement.

17. If either the landlord or the tenant neglects to attend, either personally or by agent, at the proper time for making the division or appraisement of the produce, or if there is a dispute about the division or appraisement, a Revenue-officer may, on the application of either party, appoint such person as he thinks fit to be a referee to divide or appraise the produce.

Appointment of assessors and procedure of referee.

18. (*1*) When a Revenue-officer appoints a referee under the last foregoing section, he may, in his discretion, give him instructions with respect to the association with himself of any other persons as assessors, the number, qualifications and selection of those assessors, and the procedure to be followed in making the division or appraisement.

(*2*) The referee so appointed shall make the division or appraisement in accordance with any instructions which he may have received from the Revenue-officer under the last foregoing sub-section.

(*3*) Before making the division or appraisement the referee shall give notice to the landlord and tenant of the time and place at which the division or appraisement will be made, but, if either the landlord or the tenant fails to attend either personally or by agent, the referee may proceed *ex parte*.

(*4*) For the purpose of making the division or appraisement, the referee, with his assessors, if any, may enter upon any land on which or into any building in which the produce is.

Procedure after division or appraisement.

19. (*1*) The result of the division or appraisement shall be recorded and signed by the referee, and the record shall be submitted to the Revenue-officer.

(*2*) The Revenue-officer shall consider the record, and, after such further inquiry, if any, as he may deem necessary, shall make an order either confirming or varying the division or appraisement.

(*3*) The rent shall be payable in accordance with that order.

(*4*) The Revenue-officer shall also make such order as to the costs of the reference as he thinks fit.

(*5*) The costs may include the remuneration of the referee and of the assessors, if any, and may be levied from the applicant before the appointment of the referee subject to adjustment at the close of the proceedings.

Enhancement of produce-rents of occupancy-tenants.

20. Where the rent of a tenant having a right of occupancy in any land is a share of the produce, or of the appraised value thereof, with or without an addition in money, or is paid according to cash-rates fixed with reference to the nature of the crops grown, the tenant shall be entitled to occupy the land at the share or rates hitherto paid by him:

Provided that, when the land or any part thereof previously not irrigated or flooded becomes irrigated or flooded, the share or rates payable in respect of the land or part may, subject to the provisions of this Act, be enhanced to the share or rates paid by tenants, having a similar right of occupancy, for irrigated or flooded land of a similar description and with similar advantages.

Reduction of rents referred to in the last foregoing section.

21. When the land, or any part of the land, held by a tenant having a right of occupancy to whom the last foregoing section applies ceases to be irrigated or flooded, the share or rates payable in respect of the land or part may be reduced to the share or rates paid by tenants, having a similar right of occupancy, for unirrigated or unflooded land of a similar description and with similar advantages.

Cash-rents paid by Tenants having Right of Occupancy.

Enhancement of cash-rents of occupancy-tenants.

22. (*1*) Where a tenant having a right of occupancy pays his rent entirely by a cash-rate on a recognised measure of area or by a cash-rent in gross on his tenancy, the rent may be enhanced on the ground that, after deduction therefrom of the land-revenue of, and the rates and cesses chargeable on, the tenancy, it is—

(*a*) if the tenant belongs to the class specified in clause (*a*) of sub-section (*1*) of section 5, less than two annas per rupee of the amount of the land-revenue;

(*b*) if he belongs to any of the classes specified in clauses (*b*), (*c*) and (*d*) of that sub-section, less than six annas per rupee of the amount of the land-revenue;

(*c*) if he belongs to the class specified in section 6, or if his right of occupancy is established under section 8 and his rent is not regulated by contract, less than twelve annas per rupee of the amount of the land-revenue.

(*2*) In a case to which sub-section (*1*) applies, the rent may be enhanced to an amount not exceeding two, six or twelve annas per rupee of the amount of the land-revenue, as the case may be, in addition to the amount of the land-revenue of the tenancy and the rates and cesses chargeable thereon.

Reduction of rents referred to in the last foregoing section.

23. The rent payable by a tenant to whom the last foregoing section applies may be reduced on the ground that the productive powers of his tenancy have been decreased by a cause beyond his control.

General Provisions relating to Suits for Enhancement or Reduction of Rent.

Enhancement and reduction of rent by suit.

24. (*1*) A Revenue Court, on the suit of either landlord or tenant, may, subject to the provisions of this and other sections of this

The Punjab Tenancy Bill.
(Chapter III.—Rent.—Sections 25-30.)

Act, enhance or reduce the rent of any tenant having a right of occupancy.

(2) Where a decree for the enhancement of the rent of such a tenant has been passed under the Punjab Tenancy Act, 1868, a suit for a further enhancement of his rent shall not lie till the expiration of five years from the date of the decree, unless in the meantime the local area in which the land comprised in the decree is situate has been generally re-assessed and the revenue payable in respect of that land has been increased.

XXVIII of 1868.

(3) Subject to the provisions of sub-section (2), a suit instituted for the enhancement of the rent of a tenant having a right of occupancy shall not be entertained if within the ten years next preceding its institution his rent has been commuted under section 13 or enhanced under this section, or a decree has been passed under this Act dismissing on the merits a suit for the enhancement of his rent.

Discretion as to extent of enhancement or reduction.

25. In enhancing or reducing the rent of any land under the foregoing provisions of this Chapter, the Court shall, within the limits prescribed by those provisions, enhance or reduce the rent to such an amount as it considers fair and equitable, but shall not in any case fix a rent less than the amount of the land-revenue of the land and the rates and cesses chargeable thereon.

Time for enhancement or reduction to take effect.

26. (1) Unless the Court decreeing an enhancement of rent otherwise directs, the enhancement shall take effect from the commencement of the agricultural year next following the date of the decree.

(2) A Court decreeing a reduction of rent shall specify in the decree the date on and from which the reduction is to take effect.

Adjustment of Rents expressed in terms of the Land-revenue.

Adjustment of rents expressed in terms of the land-revenue.

27. (1) Where the rent of a tenancy is the whole or a share of the land-revenue thereof, with or without an addition in money, kind or service, and the land-revenue of the tenancy is altered, a Revenue-officer having authority under section 56 of the Punjab Land-revenue Act, 1887, to determine the land-revenue payable in respect of the several holdings comprised in the estate in which the tenancy is situate shall determine also the amount of the land-revenue of the tenancy, or the proportionate share thereof, payable by the tenant as rent.

(2) In any case in which an addition referred to in sub-section (1) is the whole or a share of the rates and cesses chargeable on the tenancy, or a percentage fixed with reference to the land-revenue, or both, the Revenue-officer shall, after determining the land-revenue of the tenancy or the share thereof under that sub-section, alter the amount of the addition in proportion to the alteration of the land-revenue.

(3) The sum or sums determined under the foregoing sub-sections, together with any addition previously payable other than that referred to in sub-section (2), shall be the rent payable in respect of the tenancy until there is again an alteration of the land-revenue thereof or until the rent is enhanced by a suit under this Act.

(4) An alteration of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

Alteration of Rent on Alteration of Area.

Alteration of rent on alteration of area.

28. (1) Every tenant shall—

(a) be liable to pay additional rent for all land proved to be in excess of the area for which rent has been previously paid by him, unless it is proved that the excess is due to the addition to his tenancy of land which, having previously belonged to the tenancy, was lost by diluvion or otherwise without any reduction of the rent being made; and

(b) be entitled to an abatement of rent in respect of any deficiency proved to exist in the area of his tenancy as compared with the area for which rent has been previously paid by him, unless it is proved that the deficiency is due to the loss of land which was added to the area of the tenancy by alluvion or otherwise, and that an addition has not been made to the rent in respect of the addition to the area.

(2) In determining the area for which rent has been previously paid, the Court shall have regard to the following among other matters, namely:

(a) the origin and conditions of the tenant's occupancy, for instance, whether the rent was a rent in gross for the entire tenancy;

(b) whether the tenant has been allowed to hold additional land in consideration of an addition to his total rent or otherwise with the knowledge and consent of the landlord; and

(c) the length of time during which there has been no dispute as to rent or area.

(3) In adding to or abating rent under this section, the Court shall add to or abate the rent to such an amount as it deems to be fair and equitable, and shall specify in its decree the date on and from which the addition or abatement is to take effect.

(4) An addition to or abatement of rent under this section shall not be deemed an enhancement or reduction of rent within the meaning of this Act.

Remission.

Remission of rent by Courts decreeing arrears.

29. Notwithstanding anything in the foregoing sections of this Chapter, if it appears to a Court making a decree for an arrear of rent that the area of a tenancy has been so diminished by diluvion or otherwise, or that the produce thereof has been so diminished by drought, hail, deposit of sand or other like calamity, that the full amount of rent payable by the tenant cannot be equitably decreed, the Court may, with the previous sanction of the Collector, allow such remission from the rent payable by the tenant as may appear to it to be just.

Remission and suspension of rent consequent on like treatment of land-revenue.

30. (1) Whenever from any cause the payment of the whole or any part of the land-revenue payable in respect of any land is remitted or suspended, a Revenue-officer may, by order, remit or suspend,

The Punjab Tenancy Bill.
(Chapter III.—Rent.—Sections 31-34.)

as the case may be, the payment of the rent of that land to an amount which may bear the same proportion to the whole of the rent payable in respect of the land as the land-revenue of which the payment has been remitted or suspended bears to the whole of the land-revenue payable in respect of the land.

(*2*) An order passed under sub-section (*1*) shall not be liable to be contested by suit in any Court.

(*3*) A suit shall not lie for the recovery of any rent of which the payment has been remitted, or, during the period of suspension, of any rent of which the payment has been suspended.

(*4*) Where the payment of rent has been suspended, the period during which the suspension has continued shall be excluded in the computation of the period of limitation prescribed for a suit for the recovery of the rent.

(*5*) If the landlord collects any rent of which the payment has been remitted, or before the expiration of the period of suspension collects any rent of which the payment has been suspended, the whole of the land-revenue remitted or suspended in his favour shall become immediately payable by him.

(*6*) The provisions of this section relating to the remission and suspension of the payment of rent may be applied, so far as they can be made applicable, to land of which the land-revenue has been released, compounded for or redeemed, in any case in which, if the land-revenue in respect of the land had not been released, compounded for or redeemed, the whole or any part of it might, in the opinion of the Revenue-officer, be remitted or suspended under the rules for the time being in force for regulating the remission and suspension of land-revenue.

Deposits.

Power to deposit rent in certain cases with Revenue-officer.

31. In either of the following cases, namely:

(*a*) when a landlord refuses to receive, or grant a receipt for, any rent payable in money when tendered to him by a tenant,

(*b*) when a tenant is in doubt as to the person entitled to receive rent payable in money,

the tenant may apply to a Revenue-officer for leave to deposit the rent in his office, and the Revenue-officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application and if the applicant pays the fee, if any, chargeable for the issue of the notice next hereinafter referred to.

Effect of depositing rent.

32. (*1*) When a deposit has been so received, it shall be deemed to be a payment made by the tenant to his landlord in respect of rent due.

(*2*) The Revenue-officer receiving the deposit shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled thereto, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(*3*) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section, but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer.

Recovery of Rent from attached Produce.

Recovery of rent from attached produce.

33. (*1*) If an order is made by any Court for the attachment of the produce of a tenancy or of any part of a tenancy, the landlord may apply to the Revenue-officer by whom the attachment is to be or has been made to sell the produce and pay to him out of the proceeds of the sale thereof the amount or value of—

(*a*) any rent which has fallen due to him in respect of the tenancy within the year immediately preceding the application, and

(*b*) the rent which will be falling due after the harvesting of the produce and is chargeable against it.

(*2*) The Revenue-officer shall give the person at whose instance the attachment was made an opportunity of showing cause why the application of the landlord should not be granted, and, if he finds the landlord's claim to the whole or any part of the rent to be proved, he shall cause the produce or such portion thereof as he may deem necessary to be sold, and shall apply the proceeds of the sale in the first instance to satisfy the claim.

(*3*) The finding of the Revenue-officer under sub-section (*2*) shall have the force of a decree in a suit between the landlord and the tenant.

Leases for period exceeding term of assessment of land-revenue.

Treatment of leases for period exceeding or equal to term of assessment of land-revenue.

34. (*1*) Where a lease has been granted, or an agreement has been entered into, by a landowner in respect of any land assessed to land-revenue, fixing for a period exceeding the term for which the land-revenue has been assessed the rent or other sum payable in respect of the land under the lease or agreement, and that term has expired, the lease or agreement shall be voidable—

(*a*) at the option of the landowner if the land-revenue of the land has been enhanced and the person to whom the lease has been granted or with whom the agreement has been entered into refuses to pay such rent or other sum as a Revenue Court, on the suit of the landowner, determines to be fair and equitable; and

where the relation of landlord and tenant exists between the grantor and grantee of the lease, or between the persons who entered into the agreement—

(*b*) at the option of the tenant if the land-revenue of the land has been reduced and the landlord refuses to accept such rent as a Revenue Court, on the suit of the tenant, determines to be fair and equitable.

(*2*) Any contract or agreement relative to the occupation, rent, profits or produce of any land which has been entered into for the term of the currency of an assessment shall, unless a contrary intention clearly appears in the contract or agreement or the contract or agreement is terminated by consent of parties or course of law, continue in force until a revised assessment takes effect.

The Punjab Tenancy Bill.

(Chapter IV.—Relinquishment, Abandonment and Ejectment.—Sections 35-45.)

CHAPTER IV.

RELINQUISHMENT, ABANDONMENT AND EJECTMENT.

Relinquishment.

Relinquishment by tenant for a fixed term.

35. A tenant holding for a fixed term under a decree or contract may relinquish his tenancy without notice at the end of that term.

Relinquishment by any other tenant.

36. (*1*) Any other tenant may relinquish his tenancy by giving verbally or in writing to his landlord, or to his landlord's agent, on or before the fifteenth day of January in any year, notice of his intention to relinquish the tenancy at the end of the agricultural year then current.

(*2*) The tenant may, instead of, or in addition to, giving the notice in the manner mentioned in sub-section (*1*), apply to a Revenue-officer on or before the date aforesaid to cause the notice to be served on the landlord, and the Revenue-officer, on receiving the cost of service from the tenant, shall cause the notice to be served as soon as may be.

(*3*) If the tenant does not give notice in the manner prescribed in this section, he shall be liable to pay the rent of his tenancy for any part of the ensuing agricultural year during which the tenancy is not let by the landlord to some other person or is not cultivated by the landlord himself.

Relinquishment of part only of a tenancy.

37. A tenant cannot, without the consent of his landlord, relinquish a part only of his tenancy.

Abandonment.

Abandonment of tenancy by occupancy-tenant.

38. If a tenant having a right of occupancy in land leaves the land for insufficient cause for more than one year without making arrangements for its cultivation or for the payment of the rent thereof, he shall be deemed to have forfeited his right of occupancy in the land.

Ejectment.

LIABILITY TO EJECTMENT.

Grounds of ejectment of occupancy-tenant.

39. A tenant having a right of occupancy shall be liable to be ejected from his tenancy on any of the following grounds, namely :

(*a*) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it;

(*b*) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate;

(*c*) that a decree for an arrear of rent in respect of the tenancy has been passed against him and remains unsatisfied.

Grounds of ejectment of tenant for a fixed term.

40. A tenant not having a right of occupancy, but holding for a fixed term under a decree or contract, shall be liable to be ejected from his tenancy at the expiration of that term, and, on any of the following grounds, before the expiration thereof, namely :

(*a*) that he has used the land comprised in the tenancy in a manner which renders it unfit for the purposes for which he held it;

(*b*) where rent is payable in kind, that he has without sufficient cause failed to cultivate that land in the manner or to the extent customary in the locality in which the land is situate;

(*c*) on any ground which would justify ejectment under the decree or contract.

Ejectment of tenant from year to year.

41. A tenant who has not a right of occupancy, and does not hold for a fixed term under a decree or contract, may be ejected at the end of any agricultural year.

PROCEDURE ON EJECTMENT.

Restriction on ejectment.

42. A tenant shall not be ejected otherwise than in execution of a decree for ejectment except in the following cases, namely :

(*a*) when a decree for an arrear of rent in respect of his tenancy has been passed against him and remains unsatisfied;

(*b*) when the tenant has not a right of occupancy, and does not hold for a fixed term under a decree or contract.

Application to Revenue-officer for ejectment.

43. In any such case as is mentioned in clause (*a*) or clause (*b*) of the last foregoing section, the landlord may apply to a Revenue-officer for the ejectment of the tenant in the case mentioned in the former clause, or for the service on the tenant of a notice of ejectment in the case mentioned in the latter clause.

Ejectment for failure to satisfy decree for arrear of rent.

44. (*1*) On receiving the application in any such case as is mentioned in the former of those clauses the Revenue-officer shall, after such inquiry with respect to the existence of the arrear as he deems necessary, cause a notice to be served on the tenant, stating the date of the decree and the amount due thereunder, and informing him that if he does not pay that amount to the Revenue-officer within fifteen days from receipt of the notice he will be ejected from the land.

(*2*) If the amount is not so paid, the Revenue-officer shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant unless good cause is shown to the contrary.

Ejectment of tenant from year to year by notice.

45. (*1*) On receiving the application of the landlord in any such case as is mentioned in clause (*b*) of section 42, the Revenue-officer shall, if the application is in order and not open to objection on the face of it, cause a notice of ejectment to be served on the tenant.

(*2*) A notice under sub-section (*1*) shall not be served after the fifteenth day of November in any year.

(*3*) The notice shall specify the name of the landlord on whose application it is issued, and describe the land to which it relates, and shall inform the tenant that he must vacate the land before the first day of May next following, or that, if he intends to contest his liability to ejectment, he must institute a suit for that purpose in a Revenue Court within two months from the date of the service of the notice.

The Punjab Tenancy Bill.

(Chapter IV.—Relinquishment, Abandonment and Ejectment.—Sections 46-52.)

(4) The notice shall also inform the tenant that if he does not intend to contest his liability to be ejected and he has any claim for compensation on ejectment he should, within two months from the date of the service of the notice, prefer his claim to the Revenue-officer having authority under the next following sub-section to order his ejectment in the circumstances described in that sub-section.

(5) If within two months from the date of the service of the notice the tenant does not institute a suit to contest his liability to be ejected, a Revenue-officer, on the application of the landlord, shall, subject to the provisions of this Act with respect to the payment of compensation, order the ejectment of the tenant:

Provided that the Revenue-officer shall not make the order until he is satisfied that the notice was duly served on the tenant.

(6) If within those two months the tenant institutes a suit to contest his liability to be ejected and fails in the suit, the Court by which the suit is determined shall by its decree direct the ejectment of the tenant.

Power to make rules.

46. The Financial Commissioner may make rules prescribing—

(a) the form and language of applications and notices under the two last foregoing sections; and

(b) the manner in which those applications and notices are to be signed and attested.

GENERAL PROVISIONS RESPECTING EJECTMENT.

Time for ejectment.

47. A decree or order for the ejectment of a tenant shall not be executed at any other time than between the first day of May and the fifteenth day of June (both days inclusive), unless the Court making the decree or, where the order is made under section 44, the officer making the order otherwise directs.

Relief against forfeiture.

48. (1) If in a suit for the ejectment of a tenant on either of the grounds mentioned in clauses (a) and (b) of section 39 or section 40 it appears to the Court that the injury caused by the act or omission on which the suit is based is capable of being remedied, or that an award of compensation will be sufficient satisfaction to the landlord therefor, the Court may, instead of making a decree for the ejectment of the tenant, order him to remedy the injury within a period to be fixed in the order, or order him to pay into Court, within such a period, such compensation as the Court thinks fit.

(2) The Court may from time to time, for special reasons, extend a period fixed by it under sub-section (1).

(3) If within the period, or extended period, as the case may be, fixed by the Court under this section, the injury is remedied or the compensation is paid, a decree for the ejectment of the tenant shall not be made.

Rights of ejected tenants in respect of crops and land prepared for sowing.

49. (1) Where at the time of the proposed ejectment of a tenant from any land his uncut or ungathered crops are standing on any part thereof, he shall not be ejected from that part until the crops have ripened and he has been allowed a reasonable time to harvest them.

(2) The Court or Revenue-officer decreeing or ordering the ejectment of the tenant may, on the application of the landlord, determine any dispute arising in consequence of the provisions of sub-section (1) between the landlord and the tenant or between the landlord and any person entitled to harvest the crops of the tenant, and may in its or his discretion—

(a) direct that the tenant pay for the longer occupation of the land secured to him under sub-section (1) such rent as may be fair and equitable, or

(b) determine the value of the tenant's uncut and ungathered crops, and, on payment thereof by the landlord to the Court or Revenue-officer, forthwith eject the tenant.

(3) When a tenant for whose ejectment proceedings have been taken has, conformably with local usage, prepared for sowing any land comprised in his tenancy, but has not sown or planted crops on that land, he shall be entitled to receive from the landlord before ejectment a fair equivalent in money for the labour and capital expended by him in so preparing the land, and the Court or Revenue-officer before which or whom the proceedings are pending shall, on the application of the tenant, determine the sum payable to the tenant under this sub-section and stay his ejectment until that sum has been paid to him.

RELIEF FOR WRONGFUL DISPOSSESSION.

Relief for wrongful dispossession or ejectment.

50. In either of the following cases, namely:

(a) if a tenant has been dispossessed without his consent of his tenancy or any part thereof otherwise than in execution of a decree or than in pursuance of an order under section 44 or section 45,

(b) if a tenant who, not having instituted a suit under section 45, has been ejected from his tenancy or any part thereof in pursuance of an order under that section denies his liability to be ejected,

the tenant may, within one year from the date of his dispossession or ejectment, institute a suit for recovery of possession or occupancy, or for compensation, or for both.

Bar of relief by suit under section 9, Act I, 1877.

51. Possession of a tenancy or of any land comprised in a tenancy shall not be recoverable under section 9 of the Specific Relief Act, 1877, by a tenant dispossessed thereof. I of 1877

Power to vary Dates prescribed by this Chapter.

Power for Local Government to fix dates for certain purposes.

52. (1) The Local Government may, for all or any of the territories under its administration, by notification fix for the purposes of sections 36, 45 and 47, or of any of those sections, any other dates than those specified therein.

(2) A notification under this section shall not take effect till after the expiration of six months from the date of the publication thereof.

The Punjab Tenancy Bill.

(Chapter V.—Alienation of, and Succession to, Right of Occupancy.—Sections 53-59.)

CHAPTER V.

ALIENATION OF, AND SUCCESSION TO, RIGHT OF OCCUPANCY.

Alienation.

Private transfer of right of occupancy under section 5 by tenant.

53. (*1*) A tenant having a right of occupancy under section 5 may transfer that right by sale, gift or mortgage, subject to the conditions mentioned in this section.

(*2*) If he intends to transfer the right by sale, gift, mortgage by conditional sale or usufructuary mortgage, he shall cause notice of his intention to be served on his landlord through a Revenue-officer, and shall defer proceeding with the transfer for a period of one month from the date on which the notice is served.

(*3*) Within that period of one month the landlord may claim to purchase the right at such value as a Revenue-officer may, on application made to him in this behalf, fix.

(*4*) When the application to the Revenue-officer is to fix the value of a right of occupancy which is already mortgaged, he shall fix the value of the right as if it were not mortgaged.

(*5*) The landlord shall be deemed to have purchased the right if he pays the value to the Revenue-officer within such time as that officer appoints.

(*6*) On the value being so paid, the Revenue-officer shall, on the application of the landlord, put the landlord in possession of the right so purchased.

(*7*) If the right of occupancy was already mortgaged, it shall pass to the landlord unincumbered by the mortgage, but the mortgage-debt shall be a charge on the purchase-money.

(*8*) If there is no such charge as aforesaid, the Revenue-officer shall, subject to any directions which he may receive from any Court, pay the purchase-money to the tenant.

(*9*) If there is such a charge, the Revenue-officer shall, subject as aforesaid, either apply in discharge of the mortgage-debt so much of the purchase-money as is required for that purpose and pay the balance, if any, to the tenant, or retain the purchase-money pending the decision of a Civil Court as to the person or persons entitled thereto.

(*10*) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under the two last foregoing sub-sections, but nothing in this sub-section shall prevent any person entitled to receive the whole or any part of the purchase-money from recovering it from a person to whom it has been paid by a Revenue-officer.

Procedure on foreclosure of mortgage of right of occupancy under section 5.

54. Where a mortgagee of a right of occupancy under section 5 proposes to foreclose his mortgage, the provisions of the last foregoing section shall, so far as they can be made applicable, apply as if the mortgagee were the tenant.

Sale of right of occupancy under section 5 in execution of decree.

55. (*1*) A right of occupancy under section 5 may be sold in execution of a decree or order of a Court;

(*2*) But notice of an intended sale of any such right shall be given by the Court to the landlord, and, if at any time before the close of the day on which the sale takes place the landlord pays to the Court or to the officer conducting the sale a deposit of twenty-five per centum on the highest bid made at the sale, he shall be declared to be the purchaser instead of the person who made that bid.

Transfer of right of occupancy under any other section than section 5.

56. A right of occupancy under any other section than section 5 shall not be attached or sold in execution of a decree or order of any Court or, without the previous consent in writing of the landlord, be transferred by private contract.

Rights and liabilities of transferee of right of occupancy.

57. When a right of occupancy has been transferred by sale, gift or usufructuary mortgage to a person other than the landlord, that person shall, in respect of the land in which the right subsists, have the same rights, and be subject to the same liabilities, as the tenant to whom before the transfer the right belonged had and was subject to.

Subletting.

58. (*1*) A tenant having a right of occupancy in land may, subject to the provisions of this Act and to the conditions of any written contract between him and his landlord, sublet the land or any part thereof for any term not exceeding seven years.

(*2*) A person to whom land is sublet by a tenant having a right of occupancy therein shall, in respect of that land, and so far as regards the landlord, be, jointly with the tenant, subject to all the liabilities of the tenant under this Act.

Succession.

Succession to right of occupancy.

59. (*1*) When a tenant having a right of occupancy in any land dies, the right shall devolve—

(*a*) on his male lineal descendants, if any, in the male line of descent, and

(*b*) failing such descendants, on his widow, if any, until she dies or re-marries, or abandons the land or is under the provisions of this Act ejected therefrom, and

(*c*) failing such descendants and widow, or, if the deceased tenant left a widow, then when her interest terminates under clause (*b*) of this sub-section, on his male collateral relatives in the male line of descent from the common ancestor of the deceased tenant and those relatives:

Provided, with respect to clause (*c*) of this sub-section, that the common ancestor occupied the land.

(*2*) As among descendants and collateral relatives claiming under sub-section (*1*), the right shall, subject to the provisions of that sub-section, devolve as if it were land left by the deceased in the village in which the land subject to the right is situate.

(*3*) When the widow of a deceased tenant succeeds to a right of occupancy, she shall not transfer the right by sale, gift or mortgage, or by sublease for a term exceeding one year.

(*4*) If the deceased tenant has left no such persons as are mentioned in sub-section (*1*) on whom his right of occupancy may devolve under that sub-section, the right shall lapse to the landlord.

The Punjab Tenancy Bill.

(Chapter V.—Alienation of, and Succession to, Right of Occupancy.—Section 60. Chapter VI.—Improvements and Compensation.—Sections 61-70.)

Nullity of Irregular Transfers.

Nullity of irregular transfer of right of occupancy.

60. Any transfer made of a right of occupancy in contravention of the foregoing provisions of this Chapter shall be void.

CHAPTER VI.

IMPROVEMENTS AND COMPENSATION.

Improvements by Landlords.

Improvements by landlords on tenancies of occupancy-tenants.

61. (*1*) Without the previous permission of the Collector a landlord shall not make an improvement on the tenancy of a tenant having a right of occupancy.

(*2*) If a landlord desires to make such an improvement he may apply to the Collector for permission to make it, and the Collector shall, before making an order on the application, hear the objections, if any, of the tenant.

(*3*) In making an order on an application under sub-section (*1*) the Collector shall be guided by such rules, if any, as the Local Government may, with the previous sanction of the Governor-General in Council, make in this behalf.

Enhancement of rent in consideration of an improvement made by a landlord on the tenancy of an occupancy-tenant.

62. (*1*) When a landlord has, under the provisions of the last foregoing section, made an improvement on the tenancy of a tenant having a right of occupancy, he may apply to the Collector for an enhancement of the rent of the tenant.

(*2*) If the tenant is a tenant to whom section 20 applies, the Collector shall enhance his rent to the share or rates paid by tenants, having a similar right of occupancy, for land of a similar description and with similar advantages.

(*3*) If the tenant is a tenant to whom section 22 applies, the Collector shall enhance his rent to such amount as the tenant would be liable to pay under that section if the land-revenue were re-assessed.

(*4*) When the improvement ceases to exist, the Collector may, on the application of the tenant, reduce the tenant's rent—

(*a*) in the case of a tenant to whom sub-section (*2*) applies, to the share or rates paid by tenants, having a similar right of occupancy, for land of a similar description and with similar advantages, and

(*b*) in the case of a tenant to whom sub-section (*3*) applies, to such an amount as the tenant would be liable to pay if the land-revenue were re-assessed.

(*5*) Section 25 shall be construed as applying to an application under this section, and a suit shall not lie in any Court for any purpose for which an application might be made under this section.

Improvements by Tenants.

Title of occupancy-tenant to make improvements.

63. A tenant having a right of occupancy is entitled to make improvements on his tenancy.

Title of tenants not having right of occupancy to make improvements.

64. (*1*) A tenant not having a right of occupancy may make improvements on his tenancy with the assent of his landlord.

(*2*) If at any time the question arises whether or not the landlord assented to the making of an improvement by a tenant not having a right of occupancy, the assent may be inferred from circumstances.

Improvements made before commencement of this Act.

65. Improvements made by a tenant before the commencement of this Act shall be deemed to have been made in accordance with this Act, unless in the case of a tenant not having a right of occupancy it is shown that the improvement was made in contravention of a written agreement between him and his landlord.

Improvements made in anticipation of ejectment.

66. A tenant ejected in execution of a decree, or in pursuance of a notice of ejectment, shall not be entitled to compensation for any improvement made by him after the institution of the suit, or service of the notice, which resulted in his ejectment.

Tender of lease for twenty years to tenant to be a bar to right to compensation.

67. If a landlord tenders to a tenant a lease of his tenancy for a term of not less than twenty years from the date of the tender at the rent then paid by the tenant, or at such other rent as may be agreed on, the tender, if accepted by the tenant, shall bar any claim by him to compensation in respect of improvements previously made on the tenancy.

Liability to pay compensation for improvements to tenant on ejectment or on enhancement of his rent.

68. Subject to the foregoing provisions of this Chapter, a tenant who has made an improvement on his tenancy in accordance with this Act shall not be ejected, and the rent payable by him shall not be enhanced, until he has received compensation for the improvement.

Compensation for Disturbance of Clearing Tenants.

Compensation for disturbance of clearing tenants.

69. (*1*) Any tenant who has cleared and brought under cultivation waste-land in which he has not a right of occupancy shall, if ejected from that land, be entitled to receive from the landlord as compensation for disturbance, in addition to any compensation for improvements, a sum to be determined by a Revenue-officer in accordance with the merits of the case, but not exceeding five years' rent of the land:

Provided that a tenant who is a joint owner of land to which this section applies shall not be entitled to compensation for disturbance on ejectment from the land or any part thereof.

(*2*) If rent has been paid for the land by division or appraisement of the produce, or by cash-rates fixed with reference to the nature of the crops grown, or if no rent, or no rent other than the land-revenue of the land and the rates and cesses chargeable thereon has been paid therefor, the compensation may be computed as if double the amount of the land-revenue of the land were the annual rent thereof.

Procedure in determining Compensation.

Determination of compensation by Revenue Courts.

70. (*1*) In every suit by a tenant to contest his liability to ejectment or by a landlord to eject a tenant or to enhance his rent, the Court shall direct

The Punjab Tenancy Bill.
(Chapter VI.—Improvements and Compensation.—Sections 71-74. Chapter VII.—Jurisdiction and Procedure.—Sections 75-76.)

the tenant to file a statement of his claim, if any, to compensation for improvements or for disturbance and of the grounds thereof.

(2) If the Court decrees the ejectment of the tenant or the enhancement of his rent, it shall determine the amount of compensation, if any, due to the tenant, and shall stay execution of the decree until the landlord pays into Court that amount less any arrears of rent or costs proved to the satisfaction of the Court to be due to him from the tenant.

Determination of compensation by Revenue-officers.

71. A tenant on whom a notice of ejectment has been served may, if he has not instituted a suit to contest his liability to be ejected, apply to the Revenue-officer who issued the notice to determine the amount of compensation due to him for improvements or for disturbance, or for both, and the Revenue-officer shall determine the amount, if any, accordingly and stay the ejectment of the tenant until the landlord pays to the Revenue-officer the amount so determined less any arrears of rent or costs proved to the satisfaction of the Revenue-officer to be due to the landlord from the tenant.

Matters to be regarded in assessment of compensation for improvements.

72. In estimating the compensation to be awarded under this Chapter to a tenant for an improvement, the Court or Revenue-officer shall have regard to—

(*a*) the amount by which the value or the produce of the tenancy, or the value of that produce, is increased by the improvement;

(*b*) the condition of the improvement and the probable duration of its effects;

(*c*) the labour and capital required for the making of such an improvement;

(*d*) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement; and

(*e*) in the case of a reclamation, or of the conversion of unirrigated into irrigated land, the length of time during which the tenant has had the benefit of the improvement.

Form of compensation.

73. (*1*) The compensation shall be made by payment in money, unless the parties agree that it be made in whole or in part by the grant of a beneficial lease of land or in some other way.

(2) If the parties so agree, the Court or Revenue-officer shall make an order accordingly.

Relief in case of Ejectment before Determination of Compensation.

Relief in case of ejectment before determination of compensation.

74. (*1*) If from any cause the amount of compensation payable to a tenant—

(*a*) under this Chapter for improvements or disturbance; or

(*b*) under section 49 for the value of uncut or ungathered crops or the preparation of land for sowing,

has not been determined before the tenant is ejected, the ejectment shall not be invalidated by reason of the omission, but the Court or Revenue-officer which decreed or who ordered the ejectment may, on application made by the tenant within one year from the date of the ejectment, correct the omission by making in favour of the tenant an order for the payment to him by the landlord of such compensation as the Court or officer may determine the tenant to be entitled to.

(2) An order made under sub-section (*1*) may be executed in the same manner as a decree for money may be executed by a Revenue Court.

CHAPTER VII.

JURISDICTION AND PROCEDURE.

Jurisdiction.

Revenue-officers.

75. (*1*) There shall be the same classes of Revenue-officers under this Act as under the Punjab Land-revenue Act, 1887, and, in the absence of any order of the Local Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under that Act shall be a Revenue-officer of the same class having jurisdiction within the same local limits under this Act.

(2) The expressions "Collector" and "Financial Commissioner" have the same meaning in this Act as in the Punjab Land-revenue Act, 1887.

Applications and proceedings cognizable by Revenue-officers.

76. (*1*) The following applications and proceedings shall be disposed of by Revenue-officers as such, and no Court shall take cognizance of any dispute or matter with respect to which any such application or proceeding might be made or had:

FIRST GROUP.

(*a*) proceedings under section 27 for the adjustment of rents expressed in terms of the land-revenue;

(*b*) proceedings relating to the remission and suspension of rent under section 30;

(*c*) applications under section 43 for the ejectment of a tenant against whom a decree for an arrear of rent in respect of his tenancy has been passed and remains unsatisfied:

(*d*) applications under section 45, sub-section (*5*), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected and has claimed compensation under section 71;

(*e*) applications under section 53 or section 54 for the fixing of the value of a right of occupancy;

(*f*) applications under section 53 or section 54 by landlords for possession of land subject to a right of occupancy sought to be transferred or foreclosed;

(*g*) proceedings under Chapter VI with respect to the award of compensation for improvements or disturbance;

SECOND GROUP.

(*h*) applications under section 17 with respect to the division or appraisement of produce;

The Punjab Tenancy Bill.
(Chapter VII.—Jurisdiction and Procedure.—Sections 77-78.)

(*i*) applications under section 45, sub-section (*5*), for the ejectment of a tenant on whom a notice of ejectment has been served and who has not instituted a suit to contest his liability to be ejected and has not claimed compensation under section 71;

(*j*) applications for the determination—

(i) under section 49 of the rent payable for land occupied by crops uncut or ungathered at the time of an order being made for the ejectment of a tenant, or

(ii) under section 49 or section 74 of the value of such crops or of the sum payable to the tenant for labour and capital expended by him in preparing land for sowing;

THIRD GROUP.

(*k*) applications under section 31 by tenants to deposit rent;

(*l*) applications under section 36 for service of notice of relinquishment;

(*m*) applications under section 43 for service of notice of ejectment;

(*n*) applications under section 53 or section 54 for service of notice of intended transfer or foreclosure.

(*2*) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,—

(*a*) a Collector or an Assistant Collector of the first grade may dispose of any of the applications and proceedings mentioned in sub-section (*1*);

(*b*) an Assistant Collector of the second grade, not being a Naib-tahsildár, may dispose of any of the applications mentioned in the second and third groups of that sub-section; and

(*c*) a Naib-tahsildár, when invested with the powers of an Assistant Collector of the second grade, may dispose of any of the applications mentioned in the third group of that sub-section.

Revenue Courts and suits cognizable by them.

77. (*1*) When a Revenue-officer is exercising jurisdiction with respect to any such suit as is described in sub-section (*3*), or with respect to an appeal or other proceeding arising out of any such suit, he shall be called a Revenue Court.

(*2*) There shall be the same classes of Revenue Courts as of Revenue-officers under this Act, and, in the absence of any order of the Local Government to the contrary, a Revenue-officer of any class having jurisdiction within any local limits under this Act shall be a Revenue Court of the same class having jurisdiction within the same local limits.

(*3*) The following suits shall be instituted in and heard and determined by Revenue Courts, and no other Court shall take cognizance of any dispute or matter with respect to which any such suit might be instituted:—

FIRST GROUP.

(*a*) suits for enhancement or reduction of rent under section 24;

(*b*) suits for addition to or abatement of rent under section 28 or for commutation of rent;

(*c*) suits under section 34 for the determination of rent or other sum on the expiration of the term of an assessment of land-revenue;

SECOND GROUP.

(*d*) suits to establish a claim to a right of occupancy, or to prove that a tenant has not such a right;

(*e*) suits under Chapter IV for the ejectment of a tenant having a right of occupancy, or holding for a fixed term under a decree or contract;

(*f*) suits under section 45 to contest liability to ejectment when notice of ejectment has been served;

(*g*) suits under section 50 for recovery of possession or occupancy, or for compensation, or for both;

(*h*) suits to set aside a transfer made of a right of occupancy in contravention of the provisions of this Act, or to dispossess a person to whom such a transfer has been made, or for both purposes;

(*i*) suits for sums payable on account of village-cesses or village-expenses or for a share of the emoluments of a village-officer;

(*j*) suits by co-sharers in an estate or holding for a share of the profits thereof or for a settlement of accounts;

(*k*) suits for the recovery of over-payments of rent or land-revenue or of any other demand for the recovery of an arrear of which a suit lies in a Revenue Court under this sub-section;

THIRD GROUP.

(*l*) suits for arrears of rent, or the money equivalent of rent, or for payments claimed on account of rights in or over land or in water, including rights of irrigation, rights over fisheries, rights of pasturage and forest-rights;

(*m*) suits for sums payable on account of land-revenue or of any other demand recoverable as an arrear of land-revenue under any enactment for the time being in force, and by superior landowners for other sums due to them as such.

(*4*) Except as otherwise provided by any rule made by the Financial Commissioner in this behalf,—

(*a*) a Collector may hear and determine any of the suits mentioned in sub-section (*3*);

(*b*) an Assistant Collector of the first grade may hear and determine any of the suits mentioned in the second and third groups of that sub-section, and, if he has by name been specially empowered in this behalf by the Local Government, any of the suits mentioned in the first group; and

(*c*) an Assistant Collector of the second grade may hear and determine any of the suits mentioned in the third group.

Administrative Control.

Superintendence and control of Revenue-officers and Revenue Courts.

78. (*1*) The general superintendence and control over all other Revenue-officers and Revenue Courts shall be vested in, and all such officers and Courts

The Punjab Tenancy Bill.
(Chapter VII.—Jurisdiction and Procedure.—Sections 79-84.)

shall be subordinate to, the Financial Commissioner.

(2) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers and Revenue Courts in his division.

(3) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue-officers and Revenue Courts in his district.

Power to distribute business and withdraw and transfer cases.

79. (1) The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue-officer or Revenue Court under his control.

(2) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer or Revenue Court under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer or Revenue Court under his control.

(3) An order under sub-section (1) or sub-section (2) shall not empower any Revenue-officer or Revenue Court to exercise any powers or deal with any business which he or it would not be competent to exercise or deal with within the local limits of his or its own jurisdiction.

Appeal, Review and Revision.

Appeals.

80. An appeal shall lie from an original or appellate order or decree made under this Act by a Revenue-officer or Revenue Court, as follows, namely:

(a) to the Collector when the order or decree is made by an Assistant Collector of either grade;

(b) to the Commissioner when the order or decree is made by a Collector;

(c) to the Financial Commissioner when the order or decree is made by a Commissioner:

Provided that—

(i) an appeal from a decree or order made by an Assistant Collector of the first grade specially empowered by name in that behalf by the Local Government in a suit mentioned in the first group of sub-section (3) of section 77 shall lie to the Commissioner and not to the Collector;

(ii) when an original order or decree is confirmed on first appeal, a further appeal shall not lie;

(iii) when any such order or decree is modified or reversed on appeal by the Collector, the order or decree made by the Commissioner on further appeal to him shall be final.

Limitation for appeals.

81. The period of limitation for an appeal under the last foregoing section shall run from the date of the order or decree appealed against, and shall be as follows, that is to say:

(a) when the appeal lies to the Collector—thirty days;

(b) when the appeal lies to the Commissioner—sixty days;

(c) when the appeal lies to the Financial Commissioner—ninety days.

Review by Revenue-officers.

82. (1) A Revenue-officer, as such, may either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm any order passed by himself or by any of his predecessors in office:

Provided as follows:

(a) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue-officer of a class below that of Collector proposes to review any order whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject;

(b) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period;

(c) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;

(d) an order against which an appeal has been preferred shall not be reviewed.

(2) For the purposes of this section, the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

(3) An appeal shall not lie from an order refusing to review, or confirming on review, a previous order.

Computation of periods limited for appeals and applications for review.

83. In the computation of the period for an appeal from, or an application for the review of, an order under this Act, the limitation therefor shall be governed by the Indian Limitation Act, 1877. XV of 1877.

Power to call for, examine and revise proceedings of Revenue-officers and Revenue Courts.

84. (1) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court subordinate to him.

(2) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer or Revenue Court under his control.

(3) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or the order or decree made should be modified or reversed, he shall report the case, with his opinion thereon, for the orders of the Financial Commissioner.

(4) The Financial Commissioner may in any case called for by himself under sub-section (1) or reported to him under sub-section (3) pass such order as he thinks fit:

Provided that he shall not under this section—

(a) modify or reverse an order or decree without giving the parties affected thereby an opportunity of being heard, or

The Punjab Tenancy Bill.
(Chapter VII.—Jurisdiction and Procedure.—Sections 85-90.)

(*b*) modify or reverse a decree or order of a Revenue Court, unless that Court appears to him to have exercised a jurisdiction not vested in it by law, or to have failed to exercise a jurisdiction so vested, or not to have acted in the exercise of its jurisdiction according to law.

Procedure.

Procedure of Revenue-officers.

85. (*1*) The Local Government may make rules consistent with this Act for regulating the procedure of Revenue-officers under this Act in cases in which a procedure is not prescribed by this Act.

(*2*) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(*3*) The rules may also provide for the mode of executing orders as to costs, and may adapt to proceedings under this Act all or any of the provisions of the Punjab Land-revenue Act, 1887, with respect to arbitration.

Persons by whom appearances may be made before Revenue-officers as such and not as Revenue Courts.

86. (*1*) Appearances before a Revenue-officer as such, and applications to and acts to be done before him, under this Act may be made or done—

(*a*) by the parties themselves, or

(*b*) by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

(*2*) For the purposes of sub-section (*1*), recognized agents shall be such persons as the Local Government may by notification declare in this behalf.

(*3*) The fees of a legal practitioner shall not be allowed as costs in any proceeding before the Revenue-officer under this Act, unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

Costs.

87. (*1*) A Revenue-officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit;

(*2*) But if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

Procedure of Revenue Courts.

88. (*1*) The Local Government may, with the previous sanction of the Governor-General in Council, make rules consistent with this Act for regulating the procedure of Revenue Courts in matters under this Act for which a procedure is not prescribed thereby, and may by any such rule direct that
XIV of 1882. any provisions of the Code of Civil Procedure shall apply, with or without modification, to all or any classes of cases before those Courts.

(*2*) Until rules are made under sub-section (*1*), and subject to those rules when made and to the provisions of this Act,—

(*a*) the Code of Civil Procedure shall, so far as it is applicable, apply to all proceedings in Revenue Courts whether before or after decree; and

(*b*) the Financial Commissioner shall, in respect of those proceedings, be deemed to be the High Court within the meaning of that Code, and shall, subject to the provisions of this Act, exercise, as regards the Courts under his control, all the powers of a High Court under the Code.

Power of Revenue-officer or Revenue Court to summon persons.

89. (*1*) A Revenue-officer or Revenue Court may summon any person whose attendance he or it considers necessary for the purpose of any application, suit or other business before him or it as a Revenue-officer or Revenue Court.

(*2*) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or a legal practitioner.

(*3*) The person attending in obedience to the summons shall state the truth upon any matter respecting which he is examined or makes statements, and produce such documents and other things relating to any such matter as the Revenue-officer or Revenue Court may require.

Mode of service of summons.

90. (*1*) A summons issued by a Revenue-officer or Revenue Court shall, if practicable, be served (*a*) personally on the person to whom it is addressed, or failing him on (*b*) his recognised agent, or (*c*) an adult male member of his family usually residing with him.

(*2*) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue-officer is employed or the Revenue Court is held, and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons on some conspicuous place in or near the estate wherein the land is situate.

(*3*) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer or Revenue Court so directs, be served by delivery of a copy thereof to such of those persons as the officer or Court nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(*4*) A summons may, if the Revenue-officer or Revenue Court so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Part III of the Indian Post Office Act, 1866.

(*5*) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the officer or Court may presume that it was served

The Punjab Tenancy Bill.
(Chapter VII.—Jurisdiction and Procedure.—Sections 91-100.)

at the time when the letter would be delivered in the ordinary course of post.

Mode of service of notice or order.

91. A notice, order or proclamation, or copy of any such document, issued by a Revenue-officer or Revenue Court for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

Mode of making proclamation.

92. When a proclamation relating to any land is issued by a Revenue-officer or Revenue Court, it shall, in addition to any other mode of publication which may be prescribed by any enactment for the time being in force, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

Joinder of tenants as parties to proceedings relating to rent.

93. (*1*) Any number of tenants cultivating in the same estate may, in the discretion of the Revenue-officer or Revenue Court and subject to any rules which the Local Government may make in this behalf, be made parties to any proceeding under Chapter III.

(*2*) But a decree or order shall not be made in any such proceeding unless the Revenue-officer or Revenue Court is satisfied that all the parties thereto have had an opportunity of appearing and being heard.

(*3*) A decree or order made in any such proceeding shall specify the extent to which each of the tenants is affected thereby.

Exception of suits under this Act from operation of certain enactments.

94. Nothing in section 424 of the Code of Civil Procedure, or in the first or second paragraph of section 433 of that Code, or in section 36 of the Punjab Municipal Act, 1884, shall be construed to apply to a suit of a class mentioned in section 77 of this Act.

XIV of 1882.

XIII of 1884.

Payment into Court of money admitted to be due to third person.

95. (*1*) When a defendant admits that money is due from him on account of rent, but pleads that it is due not to the plaintiff but to a third person, the Court shall, except for special reasons to be recorded by it, refuse to take cognizance of the plea unless the defendant pays into Court the amount so admitted to be due.

(*2*) Where such a payment is made, the Court shall forthwith cause notice of the payment to be served on the third person.

(*3*) Unless the third person within three months from the receipt of the notice institutes a suit against the plaintiff and therein obtains an order restraining payment of the money, it shall be paid to the plaintiff on his application to the Court therefor.

(*4*) Nothing in this section shall affect the right of any person to recover from the plaintiff money paid to him under sub-section (*3*).

(*5*) When a defendant pays money into Court under this section, the Court shall give the defendant a receipt, and the receipt so given shall operate as an acquittance in the same manner and to the same extent as if it had been given by the plaintiff or the third person, as the case may be.

Execution of decrees for arrears of rent.

96. A Court passing a decree for an arrear of rent may, on the oral application of the decreeholder, order execution thereof against the moveable property of the tenant, and against any uncut or ungathered crops on the tenancy in respect of which the arrear is decreed.

Prohibition of imprisonment of tenants in execution of decrees for arrears of rent.

97. (*1*) A tenant shall not during the continuance of his occupancy be liable to imprisonment on the application of his landlord in execution of a decree for an arrear of rent.

Power to refer party to Civil Court.

98. (*1*) If, in any proceeding pending before a Revenue Court exercising original, appellate or revisional jurisdiction, it appears to the Court that any question in issue is more proper for decision by a Civil Court, the Revenue Court may, with the previous sanction of the Court, if any, to the control of which it is immediately subject, by order in writing, require any party to the proceeding to institute, within such time as it may fix in this behalf, a suit in the Civil Court with a view to obtaining a decision on the question, and, if he fails to comply with the requisition, may decide the question as it thinks fit.

(*2*) If the party institutes the suit in compliance with the requisition, the Revenue Court shall dispose of the proceeding pending before it in accordance with the final decision of the Civil Court of first instance or appeal, as the case may be.

Power to refer to Chief Court questions as to jurisdiction.

99. (*1*) If the presiding officer of a Civil or Revenue Court in which a suit has been instituted doubts whether he is precluded by this Act from taking cognizance of the suit, he may refer the matter through the Divisional Judge or Commissioner, or, if he is a Divisional Judge or Commissioner, directly to the Chief Court.

(*2*) On any such reference being made, the Chief Court may order the presiding officer either to proceed with the suit or to return the plaint for presentation in such other Court as it may in its order declare to be competent to take cognizance of the suit.

(*3*) The order of the Chief Court on any such reference shall be conclusive as against persons who are not parties to the suit as well as against persons who are parties thereto.

Power of Chief Court to validate proceedings had under mistake as to jurisdiction.

100. (*1*) In either of the following cases, namely:

(*a*) if it appears to a Civil Court that a Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court, or

(*b*) if it appears to a Revenue Court that a Court under its control has determined a suit which should have been heard by a Civil Court,

the Civil Court or Revenue Court, as the case may be, shall submit the record of the suit to the Chief Court.

5 *f*

The Punjab Tenancy Bill.
(Chapter VII.—Jurisdiction and Procedure.—Sections 101-106.)

(2) If on perusal of the record it appears to the Chief Court that the suit was so determined in good faith, and that the parties have not been prejudiced by the mistake as to jurisdiction, the Chief Court may order that the decree be registered in the Court which had jurisdiction.

(3) If it appears to the Chief Court, otherwise than on submission of a record under sub-section (1), that a Civil Court under its control has determined a suit of a class mentioned in section 77 which under the provisions of that section should have been heard and determined by a Revenue Court, the Chief Court may pass any order which it might have passed if the record had been submitted to it under that sub-section.

(4) With respect to any proceeding subsequent to decree, the Chief Court may make such order for its registration in a Revenue Court or Civil Court as in the circumstances appears to be just and proper.

(5) An order of the Chief Court under this section shall be conclusive as against persons who were not parties to the suit or proceeding as well as against persons who were parties thereto, and the decree or proceeding to which the order relates shall have effect as if it had been made or had by the Court in which the order has required it to be registered.

(6) The provisions of this section shall apply to any suit instituted on or after the first day of November, 1884, and to proceedings arising out of any such suit.

Miscellaneous.

Place of sitting.

101. (1) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed.

(2) Any other Revenue-officer or Revenue Court may only exercise his or its powers under this Act within the local limits of his or its jurisdiction.

Holidays.

102. (1) The Financial Commissioner, with the approval of the Local Government, shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers and Revenue Courts.

(2) A proceeding had before a Revenue-officer or Revenue Court on a day specified in the list as a day to be observed by the officer or Court as a holiday shall not be invalid by reason only of its having been had on that day.

Discharge of duties of Collector dying or being disabled.

103. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Collector under this Act.

Retention of powers by Revenue-officers on transfer.

104. When a Revenue-officer of any class who, either as such or as a Revenue Court, has under the foregoing provisions of this Act any powers to be exercised in any local area, is transferred from that local area to another as a Revenue-officer or Revenue Court of the same or a higher class, he shall continue to exercise those powers in that other local area, unless the Local Government otherwise directs or has otherwise directed.

Conferment of powers of Revenue-officer or Revenue Court.

105. (1) The Local Government may confer on any person—

(a) all or any of the powers of a Financial Commissioner, Commissioner or Collector under the provisions of this Act, or

(b) all or any of the powers with which an Assistant Collector of either grade is, or may be, invested under those provisions,

and may withdraw any powers so conferred.

(2) A person on whom powers are conferred under sub-section (1) shall exercise those powers within such local limits and in such classes of cases as the Local Government may direct, and, except as otherwise directed by the Local Government, shall for all purposes connected with the exercise thereof be deemed a Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be.

(3) Before conferring powers on the Judge of a Civil Court under sub-section (1), the Local Government shall consult the Chief Court.

(4) If any of the powers of a Collector under section 78, section 79, section 80 or section 82 are conferred on an Assistant Collector, they shall, unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

Power for Financial Commissioner to make rules.

106. (1) The Financial Commissioner, may, in addition to the other rules which may be made by him under this Act, make rules, consistent with this Act and any other enactment for the time being in force,—

(a) determining, notwithstanding anything in any record-of-rights, the number and amount of the instalments, and the times, by and at which rent is to be paid;

(b) for the guidance of Revenue-officers in determining, for the purposes of this Act, the amount of the land-revenue of any land;

(c) prescribing, for all or any of the territories to which this Act extends, the periods during which, in proceedings held under this Act, a Revenue-officer or Revenue Court is not, except for reasons of urgency to be recorded, to issue any process of arrest against a tenant or against a landowner who cultivates his own land;

(d) regulating the procedure in cases where persons are entitled to inspect records of Revenue-offices or Revenue Courts, or to obtain copies of the same, and prescribing the fees payable for searches and copies;

(e) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept, made or compiled in Revenue-offices or Revenue Courts or submitted to any authority;

The Punjab Tenancy Bill.
(Chapter VII.—Jurisdiction and Procedure.—Sections 107-108. The Schedule.)

(*f*) declaring what shall be the language of any of those offices and Courts, and determining in what cases persons practising in those offices and Courts shall be permitted to address the presiding officers thereof in English ; and

(*g*) generally for the guidance of Revenue-officers and other persons in matters connected with the enforcement of this Act.

(*2*) Until rules are made under clause (*a*) of sub-section (*1*), rent shall be payable by the instalments and at the times by and at which it is now payable.

(*3*) Rules made by the Financial Commissioner under this or any other section of this Act shall not take effect until they have been sanctioned by the Local Government.

Rules to be made after previous publication.

107. The power to make any rules under this Act is subject to the control of the Governor-General in Council, and to the condition of the rules being made after previous publication.

Powers exerciseable by Financial Commissioner from time to time.

108. All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

THE SCHEDULE.

(*See section 2.*)

ENACTMENTS REPEALED.

Number and year.	Title.	Extent of repeal.
1	2	3
Acts of the Governor-General in Council.		
XXVIII of 1868.	Punjab Tenancy Act.	The whole.
VIII of 1873	Northern India Canal and Drainage Act.	Sections 40 to 43, both inclusive.
XIV of 1875	Punjab Judicial Administration Act.	So much as has not been repealed.
XVIII of 1884.	Punjab Courts Act.	Section 3, clauses (*1*), (*2*), (*4*), (*5*), (*6*) and (*7*) ; the whole of Chapter V ; the last seventeen words of sub-section (*1*) of section 67 ; section 70 so far as regards Revenue Courts ; and section 75.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Select Committee on the Bill to amend and declare the Land-revenue Law of the Punjab was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 27th July, 1887:

WE, the undersigned, Members of the Select Committee to which the Bill to amend and declare the Land-revenue Law of the Punjab was referred, have considered the Bill and the papers noted on the margin, and have now the honour to submit this our Report, with the Bill as revised by us annexed thereto.

From the Government of the Punjab, No. 45, dated 25th February, 1887, and fifty-three enclosures.

2. In January last the Government of the Punjab appointed a Committee under the presidency of Colonel Sir William Davies to sit at Lahore and report on the Bill with reference to the opinions which had been submitted to that Government. This Committee, which we will hereafter refer to as the Lahore Committee, submitted a report which has been most useful to us in revising the Bill. Having preliminarily considered the Bill in Calcutta with Sir William Davies, we had the Bill as amended by us there re-printed, and we have now considered and revised this re-print in Simla with the Hon'ble Colonel Wace, who succeeded Sir William Davies in May last as Senior Financial Commissioner of the Punjab and has since been in charge of the Bill.

3. Where sections or Chapters are cited in italics at the commencement of any of the following paragraphs, they are, where the contrary is not stated, the sections and Chapters of the Bill as introduced.

4. *Section 1, sub-section (4).*—This sub-section has been shortened with reference to section 4 of the General Clauses Act, 1887.

5. *Section 2, sub-section (3).*—We have left pending proceedings to the operation of section 6 of the General Clauses Act, 1868.

6. *Section 3.*—We have, on the suggestion of the Lahore Committee, substituted a separate section (section 4 of the Bill as revised) for the definition of "land".

The report of that Committee has also suggested to us a revised definition of "village-cess", and we have set forth at length definitions of certain expressions occurring in the Tenancy Bill.

7. *Chapter II.*—We have transferred to the Tenancy Bill the provisions relating to the discharge by Revenue-officers and Revenue Courts of their functions under that Bill.

We have also, with the concurrence of the Local Government, adopted for the sake of convenience the expressions "Collector" and "Assistant Collector" instead of "Deputy Commissioner" and "subordinate Revenue-officer", and provided that Revenue-officers subordinate to the Collector shall be graded in two classes only.

In incorporating in the Bill the provisions of the Punjab Courts Act, 1884, relating to the appointment of a second Financial Commissioner we have revised those provisions on the lines of those sections of the North-Western Provinces Land-revenue Act, 1873, which relate to the Board of Revenue.

8. *Section 19 (section 13 of Bill as revised).*—As regards appeals, we have provided, at the suggestion of the Lahore Committee, that when an original order is modified or reversed on appeal by the Collector the order made by the Commissioner on further appeal to him shall be final.

We have excepted appeals under sections 58 and 118 of the Bill as revised from the operation of the general rule respecting the course of appeal.

9. *Section 23 (section 20 of Bill as revised).*—We have adapted the provisions of the Bill as introduced, respecting the service of processes through the post, to those of section 148 of the Bengal Tenancy Act, 1885.

We have also, on the analogy of section 30 of the Code of Civil Procedure, made special provision for cases in which the persons to be summoned are so numerous that personal service on all of them is not reasonably practicable.

10. *Section 26 (section 18 of Bill as revised).*—We have struck out the words which made appearances of legal practitioners dependent on the permission of Revenue-officers. There appears to us to be nothing in existing practice which cannot be adequately provided for by rules under section 17 of the Bill as revised.

11. *Chapter III.*—At the suggestion of the Lahore Committee, we have proposed to empower the Financial Commissioner to make rules to regulate the appointment, punishment, duties and emoluments of inámdárs, who in some districts of the Punjab hold a position similar to that of zaildárs.

The addition to section 35 (section 28 of the Bill as revised) renders unnecessary the retention of section 137 of the Bill as introduced.

We have added kánúngos to the classes to whom section 37 (section 30 of the Bill as revised) is to apply, and have proposed that any assignment of his emoluments by a person to

whom the section applies shall be subject to rules to be made by the Financial Commissioner in this behalf. A village-headman is, in special circumstances, allowed to perform his duties by deputy, and the deputy in such a case usually receives part of the emoluments of the headman.

12. *Chapter IV.*—In revising this Chapter it has been our object to continue, with as little alteration as possible, the provisions of the existing law. But we have so far altered those provisions as to give to all village-records the special evidential value which has hitherto been attached to a settlement-record only. The principal alterations will be found in sections 33 and 44 of the Bill as revised.

13. *Section 41 (section 32 of Bill as revised).*—In connection with this section and section 58 (section 49 of the Bill as revised) we have proposed to transfer Chapter VI of the Punjab Courts Act, 1884, to this Bill as Chapter XI.

14. *Section 44 (section 44 of Bill as revised).*—We have added after this section a section (section 45 of the Bill as revised) re-producing the substance of section 20 of the Punjab Land-revenue Act of 1871.

15. *Section 48 (section 145 of Bill as revised.)*—We have made this section follow more closely the terms of section 66 of the North-Western Provinces Land-revenue Act, 1873, as amended by section 8 of the North-Western Provinces Land-revenue Act, 1879, providing, however, for the record not only of village-cesses which have been specially or generally approved by the Local Government but also, as suggested by the Chief Court, of those cesses the title to which has, before the passing of the proposed Act, been judicially established.

16. *Section 50 (Chapter IX of Bill as revised).*—We have substituted for this section a separate chapter on Partition and have incorporated in it most of the rules now in force in the Punjab and some of the provisions of the North-Western Provinces Land-revenue Act, 1873. We have also, at the suggestion of the Lahore Committee, proposed to insert a section (section 150 of the Bill as revised) designed for the protection from encroachment of land which has been reserved for the common purposes of co-sharers.

17. *Section 135.*—This section has become section 40 of the Bill as revised.

18. *Section 55.*—We have, at the suggestion of the Lahore Committee, expressly provided in section 147 of the Bill as revised for agreements substituting service for payment of land-revenue, and for the enforcement of those agreements. In some parts of the Punjab, and especially in districts lying along the frontier, a portion of the land-revenue is remitted on condition of the landowner rendering public service.

We have further in section 48 of the Bill as revised expressly declared all land to be liable to be assessed to land-revenue, following in this respect the provisions of sections 45 and 100 of the Bombay Land-revenue Code, 1879.

19. *Sections 56 and 57 (sections 61 and 62 of Bill as revised).*—We have transferred these sections to the Chapter relating to collection of land-revenue. But we have omitted sub-section (*3*) of section 57 empowering the Deputy Commissioner to prevent the removal of produce, such a power appearing to us to be rendered unnecessary by the other provisions of the Bill.

20. *Section 62 (section 53 of Bill as revised).*—We have incorporated in this section that portion of section 92 of the North-Western Provinces Land-revenue Act, 1873, which relates to the fixing of the period for which an assessment is to have effect.

21. After section 63 we have inserted a section (section 54 of the Bill as revised) in the terms of section 38 of the Punjab Land-revenue Act of 1871.

22. *Section 65 (section 56 of Bill as revised).*—We have provided in this section for fluctuating as well as fixed assessments, and required an assessment to be distributed before any instalment of it becomes payable.

23. *Section 67 (section 146 of Bill as revised).*—We consider that fluctuating dues payable by an inferior to a superior landowner should ordinarily be liable to commutation only on the application of both the landowners.

24. *Section 68 (section 60 of Bill as revised).*—We have proposed to restore the language of section 27 of the Punjab Land-revenue Act of 1871.

25. *Section 73.*—This section, which would have authorised the levy of interest on arrears of land-revenue, has met with much adverse criticism, and we have omitted it.

26. *Section 93.*—We have omitted this section as asserting without sufficient necessity a principle which would possibly operate harshly in case of communities jointly responsible for an assessment.

27. *Section 105 (section 96 of Bill as revised).*—We have made it clear that a sale discharges an arrear only to the extent of the proceeds of the sale, and that any balance of the arrear may be recovered from the defaulter either by further proceedings under Chapter VI of the Bill or by such other lawful means as the Collector thinks fit.

28. *Section 107 (section 98 of Bill as revised).*—We have removed clause (*d*), because sums due from an agent of the Collector would be recoverable as an arrear of land-revenue under Act XII of 1850.

As regards clause (*e*) (clause (*c*) in Bill as revised), we have proposed that only those fees be recoverable as arrears of land-revenue which are payable for the use of or benefits derived from works constructed by district boards or local boards for agricultural purposes.

At the suggestion of the Lahore Committee, we have added a clause applying the provisions of the section to sums payable to the Government by a person who is surety for the payment of any sum recoverable as an arrear of land-revenue.

29. *Section 108.*—For this section we have substituted section 33 of the revised Tenancy Bill.

30. *Chapter VIII.*—We have, at the suggestion of the Lahore Committee and with the concurrence of the Local Government, omitted the Chapter regarding village waste-lands.

31. *Chapter IX (Chapter VIII of Bill as revised).*—We have added to this Chapter a section (section 109) suggested by section 123 of the Bombay Land-revenue Code, 1879, imposing on village-officers the duty of reporting to a Revenue-officer the destruction, injury or removal of survey-marks erected in their villages.

32. We have inserted as Chapter X of the Bill as revised the rules which have long been in force in the Punjab respecting references to arbitration in matters relating to the revenue, and, as already stated, we have re-produced in Chapter XI the substance of Chapter VI of the Punjab Courts Act, 1884.

33. *Sections 123-125.*—We have transferred to the Tenancy Bill so much of these sections as relates to the deposit of rent.

34. *Sections 126 and 127 (section 147 of Bill as revised).*—At the suggestion of the Lahore Committee, we have required the rules of the Financial Commissioner to be made with the concurrence of the Chief Court.

35. *Section 129, sub-section (1), (section 155, sub-section (1), of Bill as revised).*—The statement of the matters respecting which rules may be made under this sub-section in such detail as they are stated in clauses (*f*) and (*g*) appears to us to be undesirable as being likely to lead to a narrower construction than is intended being placed on the last clause of the sub-section.

We have proposed by clause (*c*) of the sub-section to confer on the Financial Commissioner the power to make rules respecting the service and execution of processes issued by Revenue Courts which is at present vested in the Chief Court under section 20 of the Court-fees Act, 1870.

36. *Section 131.*—The substance of this section has, with reference to section 6 of the General Clauses Act, 1887, been incorporated in section 156 of the Bill as revised.

37. *Section 133.*—It appears to us that this section will find a more appropriate place in some law of general application than in this Bill.

38. *Section 136 (section 149 of Bill as revised).*—We have proposed to give power to compel the attendance of a person within the limits of an estate in which he holds or cultivates land, even though he does not reside there.

39. *Section 138.*—This section has, in a slightly modified form, become section 34 of the revised Tenancy Bill.

40. We have added to the Bill as revised the following among other sections, namely:—

(*a*) *section 99*, respecting the application of Chapter VI to the collection of sums recoverable as arrears of land-revenue;

(*b*) *section 142*, respecting the attachment of assigned land-revenue;

(*c*) *section 143 (section 127, sub-section (2), of Bill as introduced)*, respecting the preservation of attached produce;

(*d*) *section 148*, respecting the recovery of the cost of assessing assigned land-revenue;

(*e*) *section 152*, respecting the award of costs by Revenue-officers; and

(*f*) *section 153 (section 20, sub-section (2), of Bill as introduced)*, respecting the computation of periods for appeals and applications for review of judgment.

41. The publication ordered by the Council has been made as follows:—

In English.

Gazette.	*Date.*
Gazette of India	17th, 24th and 31st July, 1886.
Punjab Government Gazette	22nd and 29th July, and 5th August, 1886.

In the Vernacular.

Province.	*Language.*	*Date.*
Punjab	Urdu ...	12th, 19th and 26th August, 1886.

42. We think that the measure has been so altered as to require re-publication, and we recommend that it be re-published, with this Report, for general information, in the Gazette of India in English and in the Punjab Government Gazette in English and Urdu.

E. G. WACE.
A. COLVIN.
ANDREW R. SCOBLE.
J. B. PEILE.
J. W. QUINTON.

The 27th July, 1887.

No. II.

THE PUNJAB LAND-REVENUE BILL.

CONTENTS.

Sections.

The Punjab Land-revenue Bill.
(Chapter I.—Preliminary.—Sections 1-3.)

CHAPTER XI.

SPECIAL JURISDICTION WITH RESPECT TO LAND.

CHAPTER XII.

SUPPLEMENTAL PROVISIONS.

Revenue Deposits.

Execution of Orders of Civil and Criminal Courts by Revenue-officers.

Preservation of attached Produce.

Division of Produce.

Miscellaneous.

Exclusion of jurisdiction of Civil Courts.

THE SCHEDULE.—ENACTMENTS REPEALED.

A Bill to amend and declare the Land-revenue Law of the Punjab.

WHEREAS it is expedient to amend and declare the law in force in the Punjab with respect to the making and maintenance of records-of-rights in land, the assessment and collection of land-revenue, and other matters relating to land and the liabilities incident thereto; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (*1*) This Act may be called the Punjab Land-revenue Act, 1887.

(*2*) It extends to the territories for the time being administered by the Lieutenant-Governor of the Punjab, including the pargana of Spiti, but not so as to affect, otherwise than as expressly provided by this Act, any Regulation in force under the provisions of the Statute 33 Victoria, chapter 3, section 1, in any portion of those territories; and

(*3*) It shall come into force on such date as the Local Government, with the previous sanction of the Governor-General in Council, may by notification appoint in this behalf.

(*4*) Any power conferred by this Act on the Financial Commissioner to make rules, and on the Local Government to sanction them, may be exercised at any time after the passing of this Act, but a rule so made shall not take effect till the commencement of this Act.

Repeal.

2. (*1*) The enactments mentioned in the schedule are repealed to the extent specified in the third column thereof.

(*2*) But all rules, appointments, assessments and transfers made, notifications and proclamations issued, authorities and powers conferred, farms and leases granted, records-of-rights and other records framed, revised or confirmed, rights acquired, liabilities incurred, times and places appointed and other things done under any of the repealed enactments shall, so far as may be, be deemed to have been respectively made, issued, conferred, granted, framed, revised, confirmed, acquired, incurred, appointed and done under this Act.

(*3*) Any enactment or document referring to any enactment hereby repealed shall be construed as referring to this Act.

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(*1*) "estate" means any area—

(*a*) for which a separate record-of-rights has been made; or

(*b*) which has been separately assessed to land-revenue, or would have been so assessed if the land-revenue had not been released, compounded for or redeemed; or

(*c*) which the Local Government may, by general rule or special order, declare to be an estate:

(*2*) "holding" means a share or portion of an estate held by one landowner or jointly by two or more landowners:

(*3*) "pay", with its grammatical variations and cognate expressions, includes, when used with reference to rent, "deliver" and "render", with their grammatical variations and cognate expressions:

The Punjab Land-revenue Bill.
(Chapter I.—Preliminary.—Sections 4-5. Chapter II.—Revenue-officers.—Section 6.)

(4) "tenant" means a person who holds land under another person, and is, or but for a special contract would be, liable to pay rent for that land to that other person, but it does not include—

(a) an inferior landowner, or

(b) a mortgagee of the rights of a landowner, or

(c) a person to whom a holding has been transferred, or an estate or holding has been let in farm, under this Act for the recovery of an arrear of land-revenue or of a sum recoverable as such an arrear, or

(d) a person who takes from the Government a lease of unoccupied land for the purpose of sub-letting it:

(5) "landlord" means a person under whom a tenant holds land, and to whom the tenant is, or but for a special contract would be, liable to pay rent for that land:

(6) "rent" means whatever is payable in money, kind or service by a tenant on account of the use or occupation of land held by him:

(7) "tenancy" means a parcel of land held by a tenant under one lease or one set of conditions:

(8) "landowner" does not include a tenant or an assignee of land-revenue, but does include a person to whom a holding has been transferred, or an estate or holding has been let in farm, under this Act for the recovery of an arrear of land-revenue or of a sum recoverable as such an arrear, and every other person not hereinbefore in this clause mentioned who is in possession of an estate or any share or portion thereof, or in the enjoyment of any part of the profits of an estate:

(9) "land-revenue" includes assigned land-revenue and sums payable in respect of land, by way of quit-rent or of commutation for service, to the Government or to a person to whom the Government has assigned the right to receive the payment:

(10) "arrear of land-revenue" means land-revenue which remains unpaid after the date on which it becomes payable:

(11) "rates and cesses" means rates and cesses which are primarily payable by landowners, and includes—

(a) the local rate, if any, payable under the Punjab Local Rates Act, 1878; [... of 1878.]

(b) the local rate, if any, payable under the Punjab District Boards Act, 1883, and any fee leviable under section 33 of that Act from landowners for the use of or benefits derived from such works as are referred to in section 20, clauses (i) and (j), of that Act; [...X of 1883.]

(c) any annual rate chargeable on owners of lands under section 59 of the Northern India Canal and Drainage Act, 1873; [...III of 1873.]

(d) the zaildári and village-officers' cesses; and

(e) sums payable on account of village-expenses:

(12) "defaulter" means a person liable for an arrear of land-revenue, and includes a person who is responsible as surety for the payment of the arrear:

(13) "village-officer" means a chief-headman, headman or patwári:

(14) "village-cess" includes any cess, contribution or due which is customarily leviable within an estate and is neither a payment for the use of private property or for personal service nor imposed by or under any enactment for the time being in force:

(15) "Revenue-officer", in any provision of this Act, means a Revenue-officer having authority under this Act to discharge the functions of a Revenue-officer under that provision:

(16) "agricultural year" means the year commencing on the sixteenth day of June, or on such other date as the Local Government may by notification appoint for any local area:

(17) "incumbrance" means a charge upon or claim against land arising out of a private grant or contract:

(18) "legal practitioner" means any legal practitioner within the meaning of the Legal Practitioners Act, 1879, except a mukhtár: XVIII of 1879.

(19) "survey-mark" includes boundary-mark: and

(20) "notification" means a notification published by authority of the Local Government in the official Gazette.

Exclusion of certain land from operation of Act.

4. (1) Except so far as may be necessary for the record, recovery and administration of village-cesses, nothing in this Act applies to land which is occupied as the site of a town or village and is not assessed to land-revenue.

(2) A Revenue-officer may define for the purposes of this Act the limits of any such land.

Power to vary limits and alter number of tahsils, districts and divisions.

5. The Local Government may vary the limits of the tahsils, districts and divisions into which the territories administered by it are divided, and may alter the number of those tahsils and, with the previous sanction of the Governor-General in Council, the number of those districts and divisions.

CHAPTER II.

REVENUE-OFFICERS.

Classes and Powers.

Classes of Revenue-officers.

6. (1) There shall be the following classes of Revenue-officers, namely:—

(a) the Financial Commissioner;

(b) the Commissioner;

(c) the Deputy Commissioner, hereinafter referred to as the Collector;

(d) the Assistant Collector of the first grade; and

(e) the Assistant Collector of the second grade.

(2) The Local Government may appoint any Assistant Commissioner, Extra Assistant Commissioner or Tahsildár to be an Assistant Collector of the first or of the second grade, as it thinks fit, and any Naib-tahsildár to be an Assistant Collector of the second grade.

(3) Appointments under sub-section (2) shall be by notification, and may be of a person specially by name or by virtue of his office or of more persons than one by any description sufficient for their identification.

The Punjab Land-revenue Bill.
(Chapter II.—Revenue-officers.—Sections 7-14.)

(4) Subject to the provisions of this Act the jurisdiction of the Financial Commissioner extends to the whole of the territories for the time being administered by the Lieutenant-Governor of the Punjab, and of Commissioners and of Collectors and Assistant Collectors to the divisions and districts respectively in which they are for the time being employed.

Financial Commissioner.

7. (1) There shall be one or more Financial Commissioners, who shall be appointed, and may be removed, by the Local Government with the previous sanction of the Governor-General in Council.

(2) Where more Financial Commissioners than one have been appointed, the Local Government may make rules as to the distribution among them of business under this or any other Act, and by those rules require any case or class or classes of cases to be considered and disposed of by the Financial Commissioners collectively.

(3) When there is a difference of opinion among the Financial Commissioners as to any decree or order to be made in a case which they are required by rules under the last foregoing sub-section to consider and dispose of collectively, the following rules shall apply, namely :—

(a) where the case is an appeal or a case on review or revision, it shall be decided in accordance with the opinion of the majority of the Financial Commissioners, or, if there is no such majority which concurs in a decision modifying or reversing the decree or order under appeal, review or revision, that decree or order shall be affirmed : and

(b) where the case is not an appeal or a case on review or revision, the matter respecting which there is the difference of opinion shall be referred to the Local Government for decision, and the decision of that Government with respect thereto shall be final.

(4) The expression "Financial Commissioner" in this or any other Act shall, when there are more Financial Commissioners than one, be construed as meaning one or more of the Financial Commissioners as the rules for the time being in force under sub-section (2) may require.

(5) The second Financial Commissioner appointed under section 52 of the Punjab Courts Act, 1884, shall be deemed to have had jurisdiction on and after the first day of November, 1884, to make any decree or order or dispose of any other business which might have been made or disposed of by the other Financial Commissioner.

XVIII of 1884.

Appointment of Commissioners, and of Deputy, Assistant and Extra Assistant Commissioners.

8. Commissioners, Deputy Commissioners, Assistant Commissioners and Extra Assistant Commissioners shall be appointed and may be removed by the Local Government.

Appointment of Tahsildárs and Naib-tahsildárs.

9. The Local Government shall fix the number of Tahsildárs and Naib-tahsildárs to be appointed, and the Financial Commissioner may make rules for their appointment and removal.

Powers of Revenue-officers.

10. Except where the class of the Revenue-officer by whom any function is to be discharged is specified in this Act, the Local Government may by notification determine the functions to be discharged under this Act by any class of Revenue-officers.

Administrative Control.

Superintendence and control of Revenue-officers.

11. (1) The Financial Commissioner shall be subject to the control of the Local Government.

(2) The general superintendence and control over all other Revenue-officers shall be vested in, and all such officers shall be subordinate to, the Financial Commissioner.

(3) Subject to the general superintendence and control of the Financial Commissioner, a Commissioner shall control all other Revenue-officers in his division.

(4) Subject as aforesaid and to the control of the Commissioner, a Collector shall control all other Revenue-officers in his district.

Power to distribute business and withdraw and transfer cases.

12. (1) The Financial Commissioner or a Commissioner or Collector may by written order distribute, in such manner as he thinks fit, any business cognizable by any Revenue-officer under his control.

(2) The Financial Commissioner or a Commissioner or Collector may withdraw any case pending before any Revenue-officer under his control, and either dispose of it himself, or by written order refer it for disposal to any other Revenue-officer under his control.

(3) An order under sub-section (1) or sub-section (2) shall not empower any officer to exercise any powers or deal with any business which he would not be competent to exercise or deal with within the local limits of his own jurisdiction.

Appeal, Review and Revision.

Appeals.

13. Save as otherwise provided by this Act, an appeal shall lie from an original or appellate order of a Revenue-officer as follows, namely :—

(a) to the Collector when the order is made by an Assistant Collector of either grade;

(b) to the Commissioner when the order is made by a Collector;

(c) to the Financial Commissioner when the order is made by a Commissioner :

Provided that—

(i) when an original order is confirmed on first appeal, a further appeal shall not lie;

(ii) when any such order is modified or reversed on appeal by the Collector, the order made by the Commissioner on further appeal, if any, to him shall be final.

Limitation for appeals.

14. Save as otherwise provided by this Act, the period of limitation for an appeal under the last foregoing section shall run from the date of the order appealed against, and shall be as follows, that is to say :—

(a) when the appeal lies to the Collector—thirty days;

The Punjab Land-revenue Bill.
(Chapter II.—Revenue-officers.—Sections 15-20.)

(*b*) when the appeal lies to the Commissioner—sixty days;

(*c*) when the appeal lies to the Financial Commissioner—ninety days.

15. (*1*) A Revenue-officer may, either of his own motion or on the application of any party interested, review, and on so reviewing modify, reverse or confirm, any order passed by himself or by any of his predecessors in office:

Review by Revenue-officers.

Provided as follows:—

(*a*) when a Commissioner or Collector thinks it necessary to review any order which he has not himself passed, and when a Revenue-officer of a class below that of Collector proposes to review any order, whether passed by himself or by any of his predecessors in office, he shall first obtain the sanction of the Revenue-officer to whose control he is immediately subject;

(*b*) an application for review of an order shall not be entertained unless it is made within ninety days from the passing of the order, or unless the applicant satisfies the Revenue-officer that he had sufficient cause for not making the application within that period;

(*c*) an order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order;

(*d*) an order against which an appeal has been preferred shall not be reviewed.

(*2*) For the purposes of this section, the Collector shall be deemed to be the successor in office of any Revenue-officer of a lower class who has left the district or has ceased to exercise powers as a Revenue-officer, and to whom there is no successor in office.

(*3*) An appeal shall not lie from an order refusing to review or confirming on review a previous order.

16. (*1*) The Financial Commissioner may at any time call for the record of any case pending before, or disposed of by, any Revenue-officer subordinate to him.

Power to call for, examine and revise proceedings of Revenue-officers.

(*2*) A Commissioner or Collector may call for the record of any case pending before, or disposed of by, any Revenue-officer under his control.

(*3*) If in any case in which a Commissioner or Collector has called for a record he is of opinion that the proceedings taken or order made should be modified or reversed, he shall report the case with his opinion thereon for the orders of the Financial Commissioner.

(*4*) The Financial Commissioner may in any case called for by himself under sub-section (*1*) or reported to him under sub-section (*3*) pass such order as he thinks fit:

Provided that he shall not under this section pass an order affecting any question of right between private persons without giving those persons an opportunity of being heard.

Procedure.

17. (*1*) The Local Government may make rules consistent with this Act for regulating the procedure of Revenue-officers under this Act in cases in which a procedure is not prescribed by this Act.

Power to make rules as to procedure.

(*2*) The rules may provide, among other matters, for the mode of enforcing orders of ejectment from, and delivery of possession of, immoveable property, and rules providing for those matters may confer on a Revenue-officer all or any of the powers in regard to contempts, resistance and the like which a Civil Court may exercise in the execution of a decree whereby it has adjudged ejectment from, or delivery of possession of, such property.

(*3*) Subject to the rules under this section, a Revenue-officer may refer any case which he is empowered to dispose of under this Act to another Revenue-officer for investigation and report, and may decide the case upon the report.

18. (*1*) Appearances before a Revenue-officer, and applications to and acts to be done before him, under this Act may be made or done—

Persons by whom appearances and applications may be made before and to Revenue-officers.

(*a*) by the parties themselves, or

(*b*) by their recognized agents or a legal practitioner:

Provided that the employment of a recognized agent or legal practitioner shall not excuse the personal attendance of a party to any proceeding in any case in which personal attendance is specially required by an order of the officer.

(*2*) For the purposes of sub-section (*1*), recognized agents shall be such persons as the Local Government may by notification declare in this behalf.

(*3*) The fees of a legal practitioner shall not be allowed as costs in any proceeding before a Revenue-officer under this Act unless that officer considers, for reasons to be recorded by him in writing, that the fees should be allowed.

19. (*1*) A Revenue-officer may summon any person whose attendance he considers necessary for the purpose of any business before him as a Revenue-officer.

Power of Revenue-officer to summon persons.

(*2*) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognized agent or a legal practitioner.

(*3*) The person attending in obedience to the summons shall state the truth upon any matter respecting which he is examined or makes statements, and produce such documents and other things relating to any such matter as the Revenue-officer may require.

20. (*1*) A summons issued by a Revenue-officer shall, if practicable, be served (*a*) personally on the person to whom it is addressed, or failing him on (*b*) his recognized agent or (*c*) an adult male member of his family usually residing with him.

Mode of service of summons.

(*2*) If service cannot be so made, or if acceptance of service so made is refused, the summons may be served by posting a copy thereof at the usual or last known place of residence of the person to whom it is addressed, or, if that person does not reside in the district in which the Revenue-officer is employed and the case to which the summons relates has reference to land in that district, then by posting a copy of the summons

The Punjab Land-revenue Bill.
(Chapter II.—Revenue-officers.—Sections 21-27. Chapter III.—Kánúngos, Zaildárs, Inámdárs and Village-officers.—Sections 28-29.)

on some conspicuous place in or near the estate wherein the land is situate.

(3) If the summons relates to a case in which persons having the same interest are so numerous that personal service on all of them is not reasonably practicable, it may, if the Revenue-officer so directs, be served by delivery of a copy thereof to such of those persons as the Revenue-officer nominates in this behalf and by proclamation of the contents thereof for the information of the other persons interested.

(4) A summons may, if the Revenue-officer so directs, be served on the person named therein, either in addition to, or in substitution for, any other mode of service, by forwarding the summons by post in a letter addressed to the person and registered under Part III of the Indian Post Office Act, 1866. III of 1866.

(5) When a summons is so forwarded in a letter and it is proved that the letter was properly addressed and duly posted and registered, the Revenue-officer may presume that the summons was served at the time when the letter would be delivered in the ordinary course of post.

Mode of service of notice, order or proclamation or copy thereof.

21. A notice, order or proclamation, or copy of any such document, issued by a Revenue-officer for service on any person shall be served in the manner provided in the last foregoing section for the service of a summons.

Mode of making proclamation.

22. When a proclamation relating to any land is issued by a Revenue-officer, it shall, in addition to any other mode of publication which may be prescribed in any provision of this Act, be made by beat of drum or other customary method, and by the posting of a copy thereof on a conspicuous place in or near the land to which it relates.

Supplemental Provisions.

Place of sitting.

23. (1) An Assistant Collector may exercise his powers under this Act at any place within the limits of the district in which he is employed.

(2) Any other Revenue-officer may only exercise his powers under this Act within the local limits of his jurisdiction.

Holidays.

24. (1) The Financial Commissioner, with the approval of the Local Government, shall publish in the local official Gazette before the commencement of each calendar year a list of days to be observed in that year as holidays by all or any Revenue-officers.

(2) A proceeding had before a Revenue-officer on a day specified in the list as a day to be observed by him as a holiday shall not be invalid by reason only of its having been had on that day.

Discharge of duties of Collector dying or being disabled.

25. When a Collector dies or is disabled from performing his duties, the officer who succeeds temporarily to the chief executive administration of the district under any orders which may be generally or specially issued by the Local Government in this behalf shall be deemed to be a Collector under this Act.

Retention of powers by Revenue-officers on transfer.

26. When a Revenue-officer of any class who has been invested under the foregoing provisions of this Act with any powers to be exercised in any local area is transferred from that local area to another as a Revenue-officer of the same or a higher class, he shall continue to exercise those powers in that other local area unless the Local Government otherwise directs or has otherwise directed.

Conferment of powers of Revenue-officer.

27. (1) The Local Government may confer on any person—

(a) all or any of the powers of a Financial Commissioner, Commissioner or Collector under this Act, or

(b) all or any of the powers with which an Assistant Collector may be invested thereunder,

and may withdraw any powers so conferred.

(2) Any person on whom powers are conferred under this section shall exercise those powers within such local limits and in such classes of cases as the Local Government may direct, and, except as otherwise directed by the Local Government, shall for all purposes connected with the exercise thereof be deemed to be a Financial Commissioner, Commissioner, Collector or Assistant Collector, as the case may be.

(3) If any of the powers of a Collector under this Act are conferred on an Assistant Collector, they shall, unless the Local Government by special order otherwise directs, be exercised by him subject to the control of the Collector.

CHAPTER III.

KÁNÚNGOS, ZAILDÁRS, INÁMDÁRS AND VILLAGE-OFFICERS.

Rules respecting kánúngos, zaildárs, inámdárs and village-officers.

28. (1) The Financial Commissioner may make rules to regulate the appointment, duties, emoluments, punishment, suspension and removal of kánúngos, zaildárs, inámdárs and village-officers.

(2) Rules under sub-section (1) may direct that the emoluments of a zaildár, inámdár or village-officer shall be such a percentage payable out of the land-revenue as may be prescribed by the rules, and that, where the land-revenue has been released, compounded for or redeemed, the percentage shall be a charge payable by the person who would be liable for the land-revenue if it had not been released, compounded for or redeemed.

Village-officers' cess.

29. (1) The Local Government may by notification impose on any estate, or on all or any estates in any local area, a cess, to be called the village-officers' cess, at a rate not exceeding one anna for every rupee of the annual value, for remunerating village-officers and for defraying other expenditure directly connected with the supervision of those officers or with the performance of their duties.

(2) "Annual value" in the last foregoing sub-section has the meaning assigned to that expression in the Punjab District Boards Act, 1883. XX of 1883.

(3) The Financial Commissioner may make rules for the collection, control and expenditure of the village-officers' cess.

(4) All cesses now levied in any local area for the purposes mentioned in sub-section (1) shall be deemed to have been lawfully imposed and shall,

The Punjab Land-revenue Bill.
(Chapter III.—Kánúngos, Zaildárs, Inámdárs and Village-officers.—Section 30. Chapter IV.—Records.—Sections 31-36.)

until the village-officers' cess is imposed in that local area under that sub-section, be deemed to be lawfully leviable and, for the purposes of this section, to be that cess.

Restriction on attachment or assignment of remuneration of kanúngos, zaildárs, ináṃdárs and village-officers.

30. (1) The emoluments of a kanúngo, zaildár, inámdár or village-officer shall not be liable to attachment in execution of a decree or order of any Civil or Revenue Court.

(2) An assignment of, or charge on, or an agreement to assign or charge, any such emoluments shall be void unless it is authorised by rules made by the Financial Commissioner in this behalf.

CHAPTER IV.

RECORDS.

Records-of-rights and Annual Records.

Record-of-rights and documents included therein.

31. (1) Save as otherwise provided by this Chapter, there shall be a record-of-rights for each estate.

(2) The record-of-rights for an estate shall include the following documents, namely :—

(a) statements showing, so far as may be practicable,—

(i) the persons who are landowners, tenants or assignees of land-revenue in the estate, or who are entitled to receive any of the rents, profits or produce of the estate ;

(ii) the nature and extent of the interests of those persons, and the conditions and liabilities attaching thereto ; and

(iii) the rent, land-revenue, rates, cesses or other payments due from and to each of those persons and to the Government ;

(b) a statement of customs respecting rights and liabilities in the estate ;

(c) a map of the estate ; and

(d) such other documents as the Financial Commissioner may, with the previous sanction of the Local Government, prescribe.

Making or special revision of record-of-rights.

32. (1) When it appears to the Local Government that a record-of-rights for an estate does not exist, or that the existing record-of-rights for an estate requires special revision, the Local Government may by notification direct that a record-of-rights be made or that the record-of-rights be specially revised, as the case may be.

(2) The notification may direct that records-of-rights shall be made or specially revised for all or any estates in any local area.

(3) A record-of-rights made or specially revised for an estate under this section shall be deemed to be the record-of-rights for the estate, but shall not affect any presumption in favour of the Government which has already arisen from any previous record-of-rights.

Annual record.

33. (1) The Collector shall cause to be prepared by the patwári of each estate yearly, or at such other intervals as the Financial Commissioner may prescribe, an edition of the record-of-rights amended in accordance with the provisions of this Chapter.

(2) This edition of the record-of-rights shall be called the annual record for the estate, and shall comprise the statements mentioned in sub-section (2), clause (a), of section 31 and such other documents, if any, as the Financial Commissioner may, with the previous sanction of the Local Government, prescribe.

(3) For the purposes of the preparation of the annual record, the Collector shall cause to be kept up by the patwári of each estate a register of mutations and such other registers as the Financial Commissioner may prescribe.

Procedure for making Records.

Making of that part of the annual record which relates to landowners, assignees of revenue and occupancy-tenants.

34. (1) Any person acquiring, by inheritance, purchase, mortgage, gift or otherwise, any right in an estate as a landowner, assignee of land-revenue or tenant having a right of occupancy, shall report his acquisition of the right to the patwári of the estate.

(2) If the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the patwári.

(3) The patwári shall enter in his register of mutations every report made to him under sub-section (1) or sub-section (2), and shall also make an entry therein respecting the acquisition of any such right as aforesaid which he has reason to believe to have taken place and of which a report should have been made to him under one or other of those sub-sections and has not been so made.

(4) A Revenue-officer shall from time to time inquire into the correctness of all entries in the register of mutations and into all such acquisitions as aforesaid coming to his knowledge of which, under the foregoing sub-sections, report should have been made to the patwári and entry made in that register, and shall in each case make such order as he thinks fit with respect to the entry in the annual record of the right acquired.

(5) Such an entry shall be made by the insertion in that record of a description of the right acquired and by the omission from that record of any entry in any record previously prepared which by reason of the acquisition has ceased to be correct.

Making of that part of the annual record which relates to other persons.

35. The acquisition of any interest in land other than a right referred to in sub-section (1) of the last foregoing section shall,—

(a) if it is undisputed, be recorded by the patwári in such manner as the Financial Commissioner may by rules in this behalf prescribe ; and,

(b) if it is disputed, be entered by the patwári in the register of mutations and dealt with in the manner prescribed in sub-sections (4) and (5) of the last foregoing section.

Determination of disputes.

36. (1) If during the making, revision or preparation of any record or in the course of any

The Punjab Land-revenue Bill.
(Chapter IV.—Records.—Sections 37-46.)

inquiry under this Chapter a dispute arises as to any matter of which an entry is to be made in a record or in a register of mutations, a Revenue-officer may of his own motion, or on the application of any party interested, but subject to the provisions of the next following section, and after such inquiry as he thinks fit, determine the entry to be made as to that matter.

(2) If in any such dispute the Revenue-officer is unable to satisfy himself as to which of the parties thereto is in possession of any property to which the dispute relates, he shall ascertain by summary inquiry who is the person best entitled to the property, and shall by order direct that that person be put in possession thereof, and that an entry in accordance with that order be made in the record or register.

(3) A direction of a Revenue-officer under sub-section (2) shall be subject to any decree or order which may be subsequently passed by any Court of competent jurisdiction.

Restrictions on variation of entries in records.

37. Entries in records-of-rights or in annual records, except entries made in annual records by patwáris under clause (*a*) of section 35 with respect to undisputed acquisitions of interests referred to in that section, shall not be varied in subsequent records otherwise than by—

(*a*) making entries in accordance with facts proved or admitted to have occurred;

(*b*) making such entries as are agreed to by all the parties interested therein or are supported by a decree or order binding on those parties;

(*c*) making new maps where it is necessary to make them.

Mutation-fees.

38. (*1*) The Local Government may fix a scale of fees for all or any classes of entries in any record or register under this Chapter and for copies of any such entries.

(2) A fee in respect of an entry shall be payable by the person in whose favour the entry is made.

Penalty for neglect to report acquisition of any right referred to in section 34.

39. Any person neglecting to make the report required by section 34 within three months from the date of his acquisition of a right referred to in that section shall be liable, at the discretion of the Collector, to a fine not exceeding five times the amount of the fee which would have been payable according to the scale fixed under the last foregoing section if the acquisition of the right had been reported immediately after its accrual.

Obligation to furnish information necessary for the preparation of records.

40. Any person whose rights, interests or liabilities are required to be entered in any record under this Chapter shall be bound to furnish, on the requisition of any Revenue-officer or village-officer engaged in compiling the record, all information necessary for the correct compilation thereof.

Rights of the Government and presumptions with respect thereto and to other matters.

Rights of the Government in mines and minerals.

41. All mines of metal and coal, and all earth-oil and gold-washings, shall be deemed to be the property of the Government, and the Government shall have all powers necessary for the proper enjoyment of its right thereto.

Presumption as to ownership of forests, quarries and waste-lands.

42. (*1*) When in any record-of-rights completed before the eighteenth day of November, 1871, it is not expressly provided that any forest, quarry, unclaimed, unoccupied, deserted or waste land, spontaneous produce or other accessory interest in land belongs to the landowners, it shall be presumed to belong to the Government.

(2) When in any record-of-rights completed after that date it is not expressly provided that any forest or quarry or any such land or interest belongs to the Government, it shall be presumed to belong to the landowners.

(3) The presumption created by sub-section (*1*) may be rebutted by showing—

(*a*) from the record or report made by the assessing officer at the time of assessment, or

(*b*) if the record or report is silent, then from a comparison between the assessment of villages in which there existed, and the assessment of villages of similar character in which there did not exist, any forest or quarry, or any such land or interest,

that the forest, quarry, land or interest was taken into account in the assessment of the land-revenue.

(4) Until the presumption is so rebutted, the forest, quarry, land or interest shall be held to belong to the Government.

Compensation for infringement of rights of third parties in exercise of a right of the Government.

43. (*1*) Whenever, in the exercise of any right of the Government referred to in either of the two last foregoing sections, the rights of any person are infringed by the occupation or disturbance of the surface of any land, the Government shall pay, or cause to be paid, to that person compensation for the infringement.

(2) The compensation shall be determined as nearly as may be in accordance with the provisions of the Land Acquisition Act, 1870. X of 1870.

Presumption in favour of entries in records-of-rights and annual records.

44. An entry made in a record-of-rights in accordance with the law for the time being in force, or in an annual record in accordance with the provisions of this Chapter and the rules thereunder, shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.

Suit for declaratory decree by person aggrieved by an entry in a record.

45. If any person considers himself aggrieved as to any right of which he is in possession by an entry in a record-of-rights or in an annual record, he may institute a suit for a declaration of his right under Chapter VI of the Specific Relief Act, 1877. I of 1877.

Supplemental Provisions.

Power to make rules respecting records and other matters connected therewith.

46. The Financial Commissioner may make rules—

(*a*) prescribing the language in which records and registers under this Chapter are to be made;

The Punjab Land-revenue Bill.

(Chapter IV.—Records.—Section 47. Chapter V.—Assessment.—Sections 48-56.)

(b) prescribing the form of those records and registers, and the manner in which they are to be prepared, signed and attested;

(c) for the survey of land so far as may be necessary for the preparation and correction of those records and registers;

(d) for the conduct of inquiries by Revenue-officers under this Chapter; and

(e) generally for the guidance of Revenue-officers and village-officers in matters pertaining to records and registers mentioned or referred to in this Chapter.

Records-of-rights and annual records for groups of estates.

47. (1) The Financial Commissioner may direct that a record-of-rights be made for any group of neighbouring estates instead of separately for each of the estates.

(2) The provisions of this Chapter with respect to a record-of-rights and annual record for an estate shall then, so far as they can be made applicable, apply to a record-of-rights and annual record for a group of estates.

CHAPTER V.

ASSESSMENT.

Assessment of land-revenue.

48. (1) All land, to whatever purpose applied and wherever situate, is liable to the payment of land-revenue to the Government, except such land as has been wholly exempted from that liability by special contract with the Government or by the provisions of any law for the time being in force.

(2) Land-revenue may be assessed in cash or in kind, or partly in cash and partly in kind, as the Local Government may direct.

(3) Land may be assessed to land-revenue notwithstanding that that revenue, by reason of its having been assigned, released, compounded for or redeemed is not payable to the Government.

General Assessments.

Notification of intended re-assessment and instructions as to principles of assessment.

49. (1) A general re-assessment of the land-revenue of a district or tahsil shall not be undertaken without the previous sanction of the Governor-General in Council and notification of that sanction.

(2) In granting the sanction the Governor-General in Council may prescribe such principles of assessment and give such other instructions as he thinks fit.

Mode of determining assessment.

50 (1) The assessment shall be made by a Revenue-officer.

(2) Before making it that officer shall report his proposed method of assessment for the sanction of the Financial Commissioner in such form as the Financial Commissioner, with the previous sanction of the Local Government, may prescribe.

Announcement of assessment

51. (1) When the Revenue-officer has obtained the sanction of the Financial Commissioner to his proposed method of assessment, he shall make an orer determining the assessment proper for each estate and announce it in such manner as the Local Government may prescribe.

(2) At the time of announcing the assessment he shall also declare the date from which it is to take effect, and, subject to the other provisions of this Act, it shall take effect accordingly.

Application for re-consideration of assessment.

52. (1) The landowner may, within thirty days from the date of the announcement of the assessment, present a petition to the Revenue-officer for a re-consideration of the amount, form or conditions of the assessment.

(2) Where the land-revenue is assigned, the assignee thereof may within thirty days from that date present a like petition to the Revenue-officer.

(3) The order passed by the Revenue-officer on the petition shall set forth his reasons for granting or refusing it.

Confirmation and duration of assessment.

53. (1) An assessment of the land-revenue of a district or tahsil shall not be considered final until it has been confirmed by the Local Government.

(2) At any time before an assessment is so confirmed the Commissioner or Financial Commissioner may modify the assessment of any estate in the district or tahsil.

(3) The Local Government shall, when confirming an assessment under sub-section (1), fix the period for which the assessment is to be in force.

Assessment to remain in force till new assessment takes effect.

54. Notwithstanding the expiration of the period fixed for the continuance of an assessment under sub-section (3) of the last foregoing section, the assessment shall remain in force till a new assessment takes effect.

Refusal to be liable for assessment and consequences thereof.

55. (1) At any time within ninety days from the date of the announcement of an assessment the landowner or, where there are more landowners than one, any of them who would be individually or collectively liable for more than half the sum assessed may give notice to the Revenue-officer of refusal to be liable for the assessment.

(2) When the Revenue-officer receives a notice under sub-section (1), the Collector may take possession of the estate and deal with it, as nearly as may be, as if the annulment of the assessment thereof had been ordered as a process for the recovery of an arrear of land-revenue due thereon.

(3) While the estate is in the possession of the Collector, the landowner or landowners shall be entitled to receive from the Government an allowance, to be fixed by the Financial Commissioner, which shall not be less than five or more than ten per cent. of the net income realized by the Government from the estate.

Distribution of the assessment of an estate over the holdings comprised therein.

56. (1) If the assessment announced under section 51 is in whole or in part a fixed assessment of an estate for a term of years, the Revenue-officer shall, before the date on which the first instalment thereof becomes payable, make an order distributing it over the several holdings comprised in the estate and make and publish a record of the distribution.

The Punjab Land-revenue Bill.
(Chapter V.—Assessment.—Sections 57-60. Chapter VI.—Collection of Land-revenue.—Sections 61-62.)

(2) The Collector may for sufficient reason make an order revising that record at any time while the assessment continues to be in force, and publish the record so revised.

(3) If the assessment announced under section 51 is in the form of rates chargeable according to the results of each year or harvest, a Revenue-officer shall from year to year or from harvest to harvest, as the conditions of the assessment may require, make and publish, not later than one month before the first instalment of the land-revenue falls due, a record of the amount payable in respect of each holding.

(4) The Financial Commissioner may make rules for the guidance of Revenue-officers in making, publishing and revising records under this section.

Application for amendment of the distribution of an assessment.

57. (1) Any person affected by a record made under sub-section (1) or sub-section (3) of the last foregoing section or by the revision of a record under sub-section (2) of that section, may, within thirty days from the date of the publication of the record, present a petition to the Revenue-officer for a re-consideration of the record so far as it affects him.

(2) The order passed by the Revenue-officer on the petition shall set forth his reasons for granting or refusing it.

Appeals from orders under sections 52 and 57.

58. An appeal from an order under the last foregoing section or section 52 shall lie to the Commissioner, and from the appellate order of the Commissioner to the Financial Commissioner.

Special Assessments.

Special assessments.

59. (1) Special assessments may be made by Revenue-officers in the following cases, namely:

(a) when estates are formed under the next following section;

(b) when land-revenue which has been released or assigned is resumed;

(c) when waste-lands are sold, leased or granted by the Government;

(d) when the assessment of any land has been annulled or the landowner has refused to be liable therefor, and the term for which the land was to be managed by the Collector or his agent or let in farm has expired;

(e) when assessments of land-revenue require revision in consequence of the action of water or sand or of calamity of season or from any other cause;

(f) when revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42, has not been included in an assessment made under the foregoing provisions of this Chapter.

(2) The Financial Commissioner may make rules for the guidance of Revenue-officers in making special assessments, and may confirm such assessments.

(3) The foregoing provisions of this Chapter with respect to general assessments shall, subject to such modifications thereof as the Financial Commissioner may prescribe by rules under the last foregoing sub-section, regulate the procedure of Revenue-officers making special assessments.

Formation of waste-land into separate estates.

60. (1) When, in the opinion of the Collector or of an officer making a general re-assessment of land-revenue under the foregoing provisions of this Chapter, the waste-land belonging to or adjoining an estate is so extensive as to exceed the requirements of the owners of the estate with reference to pasturage or other useful purpose, the Collector or officer may at any time, with the previous sanction of the Financial Commissioner, make a separate assessment of the waste-land which he considers to be so in excess, and offer that land at that assessment, for such term and on such conditions as he thinks fit, to the owners of the estate to which it belongs, and, if they refuse the offer, to the owners of any estate which the land adjoins, and, if they also refuse the offer, to any other person.

(2) When the owners of the estate to which the waste-land belongs refuse the offer, the Collector shall assign to them an annual allowance not less than five and not more than ten per cent. of the net income realized by the Government from the land.

CHAPTER VI.

COLLECTION OF LAND-REVENUE.

Security for payment of land-revenue.

61. (1) In the case of every estate, the entire estate and the landowner or, if there are more than one, the landowners jointly and severally shall be liable for the land-revenue for the time being assessed on the estate:

Provided that—

(a) the Local Government, with the previous sanction of the Governor-General in Council, may by notification declare that in any estate a holding or its owner shall not be liable for any part of the land-revenue for the time being assessed on the estate except that part which is payable in respect of the holding; and

(b) when there are superior and inferior landowners in the same estate, the Financial Commissioner may by rule, or by special order in each case, determine whether the superior or inferior landowners shall be liable for the land-revenue, or whether both shall be so liable, and, if so, in what proportions.

(2) A notification under proviso (a) to sub-section (1) may have reference to any single estate or to any class of estates or estates generally in any local area.

Further security for payment of land-revenue.

62. (1) The land-revenue for the time being assessed on an estate or payable in respect of a holding shall be the first charge upon the rents, profits and produce thereof.

(2) Without the previous consent of the Collector, the rents, profits or produce of an estate or holding shall not be liable to be taken in execution of a decree or order of any Court until the land-revenue chargeable against the rents, profits or produce, and any arrear of land-revenue due in respect of the estate or holding, have been paid.

The Punjab Land-revenue Bill.
(Chapter VI.—Collection of Land-revenue.—Sections 63-71.)

63. (*1*) Notwithstanding anything in any record-of-rights, the Financial Commissioner may fix the number and amount of the instalments, and the times, places and manner, by, at and in which land-revenue is to be paid.

Orders to regulate payment of land-revenue.

(*2*) Until the Financial Commissioner otherwise directs, land-revenue shall be payable by the instalments, at the times and places and in the manner, by, at and in which it is payable at the commencement of this Act.

64. (*1*) The Financial Commissioner may make rules consistent with this Act to regulate the collection, remission and suspension of land-revenue, and may by those rules determine the circumstances and terms in and on which assigned land-revenue may be collected by the assignee.

Rules to regulate collection, remission and suspension of land-revenue.

(*2*) Where land-revenue due to an assignee is collected by a Revenue-officer, there shall be deducted from the sum collected such a percentage on account of the cost of collection as the Financial Commissioner may by rule in this behalf prescribe.

(*3*) A suit for an arrear of assigned land-revenue shall not be entertained unless there is annexed to the plaint at the time of the presentation thereof a document under the hand of the Collector specially authorising the institution of the suit.

65. The costs of any process issued under this Chapter shall be recoverable as part of the arrear of land-revenue in respect of which the process was issued.

Costs recoverable as part of arrear.

66. A statement of account certified by a Revenue-officer shall be conclusive proof of the existence of an arrear of land-revenue, of its amount and of the person who is the defaulter.

Certified account to be evidence as to arrear.

67. Subject to the other provisions of this Act, an arrear of land-revenue may be recovered by any one or more of the following processes, namely :

Processes for recovery of arrears.

(*a*) by service of a writ of demand on the defaulter ;

(*b*) by arrest and detention of his person ;

(*c*) by distress and sale of his moveable property and uncut or ungathered crops ;

(*d*) by transfer of the holding in respect of which the arrear is due ;

(*e*) by attachment of the estate or holding in respect of which the arrear is due ;

(*f*) by annulment of the assessment of that estate or holding ;

(*g*) by sale of that estate or holding ;

(*h*) by proceedings against other immoveable property of the defaulter.

68. A writ of demand may be issued by a Revenue-officer on or after the day following that on which an arrear of land-revenue accrues.

Writ of demand.

69. (*1*) At any time after an arrear of land-revenue has accrued a Revenue-officer may issue a warrant directing an officer named therein to arrest the defaulter and bring him before the Revenue-officer.

Arrest and detention of defaulter.

(*2*) When the defaulter is brought before the Revenue-officer, the Revenue-officer may cause him to be taken before the Collector, or may keep him under personal restraint for a period not exceeding ten days and then, if the arrear is still unpaid, cause him to be taken before the Collector.

(*3*) When the defaulter is brought before the Collector, the Collector may issue an order to the officer in charge of the civil jail of the district, directing him to confine the defaulter in the jail for such period, not exceeding one month from the date of the order, as the Collector thinks fit.

(*4*) The process of arrest and detention shall not be executed against a defaulter who is a female, a minor, a lunatic or an idiot.

70. (*1*) At any time after an arrear of land-revenue has accrued, the moveable property and uncut or ungathered crops of the defaulter may be distrained and sold by order of a Revenue-officer.

Distress and sale of moveable property and crops.

(*2*) The distress and sale shall be conducted, as nearly as may be, in accordance with the law for the time being in force for the attachment and sale of moveable property under the decree of a Revenue Court constituted under the Punjab Tenancy Act, 1887 :

Provided that, in addition to the particulars exempted by that law from liability to sale, so much of the produce of the land of the defaulter as the Collector thinks necessary for seed-grain and for the subsistence, until the harvest next following, of the defaulter and his family, and of any cattle exempted by that law, shall be exempted from sale under this section.

71. (*1*) At any time after an arrear of land-revenue has accrued on a holding, the Collector may transfer the holding to any person being a land-owner of the estate in which the holding is situate and not being a defaulter in respect of his own holding, on condition of his paying the arrear before being put in possession of the holding, and on such further conditions as the Collector may see fit to prescribe.

Transfer of holding.

(*2*) The transfer may, as the Collector thinks fit, be either till the end of the agricultural year in which the defaulter pays to the transferee the amount of the arrear which the transferee paid before being put in possession of the holding, or for a term not exceeding fifteen years from the commencement of the agricultural year next following the date of the transfer.

(*3*) The Collector shall report to the Financial Commissioner any transfer made by him under this section, and the Financial Commissioner may set aside the transfer or alter the conditions thereof, or pass such other order as he thinks fit.

(*4*) A transfer under this section shall not affect the joint and several liability of the land-owners of the estate in which it is enforced.

(*5*) In respect of all rights and liabilities arising under this Act the person to whom the holding is transferred shall, subject to the conditions of the transfer, stand in the same position as that in which the defaulter would have stood if the holding had not been transferred.

(*6*) When the transfer was for a term, the holding shall, on the expiration of the term, be restored by the Collector to the defaulter free of

The Punjab Land-revenue Bill.
(Chapter VI.—Collection of Land-revenue.—Sections 72-75.)

any claim on the part of the Government or the transferee for any arrear of land-revenue or rates and cesses due in respect thereof.

72. (*1*) At any time after an arrear of land-revenue has accrued, the Collector may cause the estate or holding in respect of which the arrear is due to be attached and taken under his own management or that of an agent appointed by him for that purpose.

Attachment of estate or holding.

(*2*) The Collector or the agent shall be bound by all the engagements which existed between the defaulter and his tenants, if any, and shall be entitled to manage the land and to receive all rents and profits accruing therefrom to the exclusion of the defaulter until the arrear has been satisfied, or until the Collector restores the land to the defaulter.

(*3*) All surplus profits of the land attached beyond the cost of attachment and management and the amount necessary to meet the current demand for land-revenue and rates and cesses shall be applied in discharge of the arrear.

(*4*) Land shall not be attached for the same arrear for a longer term than five years from the commencement of the agricultural year next following the date of the attachment, but, if the arrear is sooner discharged, the land shall be released and the surplus receipts, if any, made over to the landowner.

73. (*1*) When an arrear of land-revenue has been due for a longer period than one month, and the foregoing processes are not deemed sufficient for the recovery thereof, the Financial Commissioner may, in addition to or instead of all or any of those processes, order the existing assessment of the estate or holding in respect of which the arrear is due to be annulled.

Annulment of assessment of estate or holding.

(*2*) The provisions of this section shall not be put in force for the recovery of an arrear of land-revenue which has accrued on land—

(*a*) while under attachment under the last foregoing section, or

(*b*) while under the charge of the Court of Wards.

(*3*) When the assessment of any land has been annulled, the Collector may, with the previous sanction of the Financial Commissioner, either manage the land himself or through an agent, or let it in farm to any person willing to accept the farm, for such term and on such conditions as may be sanctioned by the Financial Commissioner:

Provided that the term for which land may be so managed or farmed shall not be longer than fifteen years from the commencement of the agricultural year next following the date of the annulment.

(*4*) At some time before the expiration of that term the Collector shall assess the estate or holding at such sum as the Financial Commissioner approves for the remainder of the term of the current assessment of the district or tahsil, and shall announce the assessment to the landowner.

(*5*) The landowner may give notice to the Collector of refusal to be liable for the assessment within thirty days from the date on which the assessment was announced to him.

(*6*) If notice is so given, the Collector may, with the previous sanction of the Financial Commissioner, take the estate or holding under direct management or farm it for the remainder of the term of the current assessment of the district or tahsil, or for any period within that term which the Financial Commissioner may fix.

(*7*) When the assessment of a holding is annulled, the joint responsibility of the other landowners of the estate for the land-revenue of that holding becoming due after the annulment shall be in abeyance until a new assessment takes effect.

(*8*) The Financial Commissioner may direct that any contract made by the defaulter, or by any person through whom the defaulter claims, with respect to any land comprised in an estate or holding of which the assessment has been annulled shall not be binding on the Collector or his agent or farmer during the period for which the estate or holding remains under the management of the Collector or his agent or is let in farm.

74. (*1*) When any land is attached under section 72, or when the assessment of any land has been annulled under the last foregoing section, the Collector shall make proclamation thereof.

Proclamation of attachment or annulment of assessment, and consequences of the proclamation.

(*2*) No payment made by any person to the defaulter before the making of the proclamation on account of rent or any other asset in anticipation of the usual time for the payment shall, without the special sanction of the Collector, be credited to that person or relieve him from liability to make the payment to the Collector or his agent or farmer.

(*3*) No payment made after the making of the proclamation on account of rent or any other asset of the estate or holding to any person other than the Collector or his agent or farmer shall be credited to the person making the payment or relieve him from liability to make the payment to the Collector or his agent or farmer.

75. When an arrear of land-revenue has accrued and the foregoing processes are not deemed sufficient for the recovery thereof, the Collector, with the previous sanction of the Financial Commissioner, may, in addition to, or instead of, all or any of those processes, and subject to the provisions hereinafter contained, sell the estate or holding in respect of which the arrear is due:

Sale of estate or holding.

Provided that land shall not be sold for the recovery of—

(*a*) any arrear which has accrued while the land was under the charge of the Court of Wards, or was so circumstanced that the Court of Wards might have exercised jurisdiction over it under the provisions of section 35 of the Punjab Laws Act, 1872, clause (*a*), (*b*), (*c*) or (*d*); or IV of 1872.

(*b*) any arrear which has accrued while the land was under attachment under section 72 of this Act; or

(*c*) any arrear which has accrued while the land was held under direct management by the Collector or in farm by any other person, under section 73, after either an annulment of assessment or a refusal to be liable therefor.

The Punjab Land-revenue Bill.
(Chapter VI.—Collection of Land-revenue.—Sections 76-82.)

Effect of sale on incumbrances.

76. (*1*) Land sold under the last foregoing section shall be sold free of all incumbrances; and all grants and contracts previously made by any person other than the purchaser in respect of the land shall become void as against the purchaser at the sale.

(*2*) Nothing in sub-section (*1*) shall affect—

(*a*) a tenant's right of occupancy, unless the right was created by the defaulter himself, or

(*b*) any lease at a fair rent, temporary or perpetual, for the erection of a dwelling-house or manufactory, or for a mine, garden, tank, canal, place of worship or burial-ground, so long as the land continues to be used for the purpose specified in the lease, or

(*c*) any incumbrance, grant, contract or right of occupancy specially saved by order of the Financial Commissioner and proclaimed as hereinafter provided.

Proceedings against other immoveable property of defaulter.

77. (*1*) If the arrear cannot be recovered by any of the processes hereinbefore provided, or if the Financial Commissioner considers the enforcement of any of those processes to be inexpedient, the Collector may, where the defaulter owns any other estate or holding, or any share in any other estate or holding, or any other immoveable property, proceed under the provisions of this Act against that property as if it were the land in respect of which the arrear is due:

Provided that no interests save those of the defaulter alone shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of his interests being proceeded against.

(*2*) When the Collector determines to proceed under this section against immoveable property other than the land in respect of which the arrear is due, he shall issue a proclamation prohibiting the transfer or charging of the property.

(*3*) The Collector may at any time by order in writing withdraw the proclamation, and it shall be deemed to be withdrawn when either the arrear has been paid or the interests of the defaulter in the property have been sold for the recovery of the arrear.

(*4*) Any private alienation of the property, or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof shall be void.

(*5*) In proceeding against property under this section the Collector shall follow, as nearly as the nature of the property will admit, the procedure prescribed for the enforcement of process against land on which an arrear of land-revenue is due.

Remedies open to person denying his liability for an arrear.

78. (*1*) Notwithstanding anything in section 66, when proceedings are taken under this Act for the recovery of an arrear, the person against whom the proceedings are taken may, if he denies his liability for the arrear or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit in a Civil Court for the recovery of the amount so paid.

(*2*) A suit under sub-section (*1*) must be instituted in a Court having jurisdiction in the place where the office of the Collector of the district in which the arrear or some part thereof accrued is situate.

Procedure in Sales.

Proclamation of sale.

79. (*1*) On the receipt of the sanction of the Financial Commissioner to the sale of any immoveable property, the Collector shall issue a proclamation of the intended sale, specifying—

(*a*) the date, time and place of the sale;

(*b*) the property to be sold, and, if it is an estate or holding, the land-revenue assessed thereon or payable in respect thereof;

(*c*) if the property is to be sold for the recovery of an arrear due in respect thereof, the incumbrances, grants, contracts and rights of occupancy, if any, specially saved by order of the Financial Commissioner under section 76, sub-section (*2*), clause (*c*);

(*d*) if the property is to be sold otherwise than for the recovery of an arrear due in respect thereof, any incumbrance, grant or contract to which the property is known to be liable; and

(*e*) the amount for the recovery of which the sale is ordered.

(*2*) The proclamation shall also state that any person intending to claim a right of pre-emption must, on pain of forfeiting the right, give notice of his intention to the Collector on an office-day before that fixed for the sale.

(*3*) The place of sale specified under clause (*a*) of sub-section (*1*) must be either the office of the Collector or some place appointed by the Collector in this behalf and situate in or near the property to be sold.

Indemnity to Revenue-officer with respect to contents of proclamation.

80. A Revenue-officer shall not be answerable for any error, mis-statement or omission in any proclamation under the last foregoing section, unless the same has been committed or made dishonestly.

Publication of proclamation.

81. (*1*) A copy of the proclamation shall be served on the defaulter and be posted in a conspicuous part of the office of the Tahsildár of the tahsil in which the property to be sold is situate.

(*2*) After a copy of the proclamation has been served on the defaulter and posted in the office of the Tahsildár, a copy thereof shall be posted in the office of the Collector.

(*3*) The proclamation shall be further published in manner prescribed in section 22 and in such other manner as the Collector thinks expedient.

Time and conduct of sale.

82. (*1*) The sale shall not take place on a Sunday or other holiday, or till after the expiration of at least thirty days from the date on which the copy of the proclamation was posted in the office of the Collector.

(*2*) The sale shall be by public auction, and shall be conducted either by the Collector in person or by a Revenue-officer specially appointed by him in this behalf.

The Punjab Land-revenue Bill.
(Chapter VI.—Collection of Land-revenue.—Sections 83-96.)

Power to postpone sale.

83. The Collector may from time to time postpone the sale.

Stay of sale.

84. If at any time before the bidding at the auction is completed the defaulter pays the arrear in respect of which the land has been proclaimed for sale, together with the costs incurred for the recovery thereof, to the officer conducting the sale, or proves to the satisfaction of that officer that he has already paid the same either at the place and in the manner prescribed under section 63 or into the Government treasury, the sale shall be stayed.

Payment of deposit by highest bidder.

85. When the highest bid at the auction has been ascertained, the person who made that bid shall, on the requisition of the officer conducting the sale, pay to that officer a deposit of twenty-five per centum on the amount of his bid, and shall, on payment thereof, be declared to be the purchaser subject to the provisions of this Chapter with respect to the exercise of any right of pre-emption.

Consequences of failure to pay deposit.

86. If the person who made the highest bid fails to pay the deposit as required by the last foregoing section, the property shall forthwith be put up again and sold, and all expenses attending the first sale, and the deficiency of price, if any, which may happen on the re-sale, may be recovered from him by the Collector as if the same were an arrear of land-revenue.

Exercise of right of pre-emption.

87. (*1*) At any time before the close of the day on which the sale takes place any person who has given notice of his intention to claim a right of pre-emption under section 79, sub-section (*2*), may, on payment to the officer conducting the sale of a deposit of twenty-five per centum on the highest bid made at the sale, claim to take the property at that bid.

(*2*) If the right is not disputed, he shall be declared to be the purchaser.

(*3*) If the right is disputed, the Collector shall inquire into and decide the dispute and declare the purchaser, and his decision and declaration shall be final.

Time for payment in full.

88. The full amount of the purchase-money shall be paid by the purchaser before the close of the fifteenth day from that on which the purchaser was declared.

Procedure in default of payment.

89. In default of payment of the full amount of the purchase-money within the period mentioned in the last foregoing section, the deposit referred to in section 85 or section 87, as the case may be, shall, after defraying the expenses of the sale, be forfeited to the Government and may, if the Collector, with the previous sanction of the Commissioner, so directs, be applied in reduction of the arrear, and the property shall be re-sold, and the defaulting purchaser shall have no claim to the property or to any part of the sum for which it may subsequently be sold.

Report of sale to Commissioner.

90. Every sale of immoveable property under this Chapter shall be reported by the Collector to the Commissioner.

Application to set aside sale.

91. (*1*) At any time within thirty days from the date of the sale, application may be made to the Commissioner to set aside the sale on the ground of some material irregularity or mistake in publishing or conducting it;

(*2*) But a sale shall not be set aside on that ground unless the applicant proves to the satisfaction of the Commissioner that he has sustained substantial injury by reason of the irregularity or mistake.

Order confirming or setting aside sale.

92. (*1*) After the expiration of thirty days from the date of the sale, if such application as is mentioned in the last foregoing section has not been made, or if such application has been made and rejected, the Commissioner shall make an order confirming the sale, and, if such application has been made and allowed, the Commissioner shall make an order setting aside the sale.

(*2*) An order made under this section shall be final.

Refund of purchase-money on setting aside of sale.

93. Whenever the sale of any property is set aside, the purchaser shall be entitled to receive back his purchase-money.

Proclamation after postponement or on re-sale.

94. A sale made after a postponement under section 83, and a re-sale consequent on a purchaser's default under section 89 or on the setting aside of a sale under section 92, shall be made after the issue of a fresh proclamation in the manner thereinbefore prescribed for the sale.

On confirmation of sale, possession and certificate to be granted to purchaser.

95. (*1*) After a sale has been confirmed in manner aforesaid, the Collector shall put the person declared to be the purchaser into possession of the property sold, and shall grant him a certificate to the effect that he has purchased that property.

(*2*) The certificate shall state whether or not the property was sold for the recovery of an arrear due in respect thereof, and, if it was so sold, shall set forth the incumbrances, grants, contracts and rights of occupancy, if any, specified in the proclamation of the sale as specially saved by order of the Financial Commissioner under section 76, sub-section (*2*), clause (*c*).

(*3*) The certificate shall be deemed to be a valid transfer of the property but need not be registered as a conveyance.

(*4*) Any suit brought in any Court against the certified purchaser on the ground that the purchase was made on behalf of a person other than the certified purchaser shall be dismissed with costs.

(*5*) The certified purchaser of any immoveable property shall be entitled to all rents and profits falling due in respect of the property after the date of the confirmation of the sale and be liable for all instalments of land-revenue and rates and cesses falling due in respect thereof after that date.

Proceeds of sale.

96. (*1*) When a sale of immoveable property under this Chapter has been confirmed, the proceeds of the sale shall be applied in the first place to the payment of any arrears, including costs incurred for the recovery thereof, due to the Government

The Punjab Land-revenue Bill.

(Chapter VII.—Recovery of other Demands by Revenue-officers.—Sections 97-99. Chapter VIII.—Surveys and Boundaries.—Sections 100-103.)

from the defaulter at the date of the confirmation of the sale, whether the arrears are of land-revenue, or of sums recoverable as arrears of land-revenue, and the surplus, if any, shall be paid to the person whose property has been sold, or, if the property sold was owned by more than one landowner, then to the landowners either collectively or according to the amount of their recorded interests, as the Collector thinks fit.

(2) The surplus shall not, except under an order of a Court, be paid to any creditor of a person whose property has been sold.

(3) If the proceeds of the sale fall short of such arrears as are referred to in sub-section (*1*), the balance remaining due from the defaulter may be recovered from him by further proceedings under this Chapter or by any other means authorised by law.

CHAPTER VII.

RECOVERY OF OTHER DEMANDS BY REVENUE-OFFICERS.

Recovery of certain arrears through Revenue-officer instead of by suit.

97. When a village-officer required by rules under section 28 to collect any land-revenue or sum recoverable as an arrear of land-revenue satisfies a Revenue-officer that the revenue or sum has fallen due and has not been paid to him, the Revenue-officer may, subject to any rules which the Financial Commissioner may make in this behalf, recover it as if it were an arrear of land-revenue.

Other sums recoverable as arrears of land-revenue.

98. In addition to any sums recoverable as arrears of land-revenue under this Act or any other enactment for the time being in force, the following sums may be so recovered, namely:

(*a*) fees, fines, costs and other charges, including the village-officers' cess, payable under this Act;

(*b*) revenue due to the Government on account of pasture or other natural products of land, or on account of mills, fisheries or natural products of water, or on account of other rights described in section 41 or section 42, in cases in which the revenue so due has not been included in the assessment of an estate;

(*c*) fees payable to district boards or local boards under section 33 of the Punjab District Boards Act, 1883, for the use of or benefits derived from such works as are referred to in section 20, clauses (*i*) and (*j*), of that Act; (margin: of 1883.)

(*d*) sums leviable by or under the authority of the Government as water-rates, or on account of the maintenance or management of canals, embankments or other irrigation-works, not being sums recoverable as arrears of land-revenue under any enactment for the time being in force; and

(*e*) sums payable to the Government by a person who is surety for the payment of any of the foregoing sums or of any other sum recoverable as an arrear of land-revenue.

Application of Chapter VI to sums recoverable under this Chapter.

99. (*1*) The provisions of Chapter VI shall, with respect to any sum mentioned or referred to in this Chapter, apply, so far as they can be made applicable, as if the sum were an arrear of land-revenue and the person from whom, either as principal or as surety, it is due were a defaulter in respect of such an arrear.

(2) Unless any such sum is declared by any enactment for the time being in force to be recoverable as if it were an arrear of land-revenue due in respect of the land charged therewith, the provisions of section 77 shall apply under sub-section (*1*) to the recovery thereof.

CHAPTER VIII.

SURVEYS AND BOUNDARIES.

Power of Financial Commissioner to make rules for demarcation of boundaries and erection of survey-marks.

100. (*1*) The Financial Commissioner may make rules as to the manner in which the boundaries of all or any estates in any local area are to be demarcated and as to the survey-marks to be erected within those estates.

(2) Rules under this section may prescribe among other matters, the form of survey-marks and the material to be used in their construction.

Power of Revenue-officers to define boundaries.

101. (*1*) A Revenue-officer may, for the purpose of framing any record or making any assessment under this Act, or on the application of any person interested, define the limits of any estate, or of any holding, field or other portion of an estate, and may, for the purpose of indicating those limits, require survey-marks to be erected or repaired.

(2) In defining the limits of any land under sub-section (*1*), the Revenue-officer may cause survey-marks to be erected on any boundary already determined by or by order of any Court, Revenue-officer or Forest-settlement-officer, or restore any survey-mark already set up by, or by order of, any Court or any such officer.

Cost of erection and repair of survey-marks.

102. Subject to any rules which the Financial Commissioner may make in this behalf, survey-marks shall be erected and kept in repair by or at the cost of the persons interested in the land for the indication of the limits of which they are required:

Provided that the Local Government may in any case direct that the cost of erection shall be borne by the Government or be paid out of the proceeds of the village-officers' cess.

Recovery of cost incurred by the Government.

103. (*1*) If the persons interested in the land fail to erect or repair a survey-mark within thirty days from the date of their being required by a Revenue-officer to do so, the Revenue-officer may cause it to be erected or repaired.

(2) Where the Revenue-officer causes a survey-mark to be erected or repaired, he shall, subject to any rules under the last foregoing section, apportion the cost among the persons interested in the land in such manner as he deems just, and certify the same to the Collector.

(3) The Collector may recover the cost as if it were an arrear of land-revenue.

The Punjab Land-revenue Bill.

(Chapter VIII.—Surveys and Boundaries.—Sections 104-109. Chapter IX.—Partition.—Sections 110-112.)

Power of Revenue-officers to enter on land for purposes of survey and demarcation.

104. Any Revenue-officer, and any person acting under the orders of a Revenue-officer, may, in the discharge of any duty under this Act, enter upon and survey land and erect survey-marks thereon and demarcate the boundaries thereof, and do all other acts necessary for the proper performance of that duty.

Surveys for purpose of preparation of records.

105. (*1*) When any land is being surveyed in pursuance of rules under section 46, clause (*c*), any Revenue-officer directing the survey may, by notice or proclamation, require all persons having rights or interests in the land to indicate, within a specified time, by temporary marks of a kind to be described in the notice or proclamation, the limits of those rights or interests.

(*2*) If a person to whom the notice or proclamation is addressed fails to comply with the requisition, he shall be liable at the discretion of the Revenue-officer to fine which may extend to ten rupees.

Provision of flagholders and chainmen for those surveys.

106. (*1*) For the purposes of the survey of any land in pursuance of rules under section 46, clause (*c*), the landowners shall be bound to provide fit persons to act as flagholders and chainmen.

(*2*) If the landowners fail to provide such persons or to provide them in sufficient number, such other persons as a Revenue-officer considers necessary may be employed and the cost of employing them recovered from the landowners as if it were an arrear of land-revenue.

Professional surveys.

107. (*1*) If it is necessary to make a survey by other agency than that of Revenue-officers or village-officers, the Local Government may publish a notification stating—

(*a*) the local area to be surveyed and the nature of the survey;

(*b*) the names or official designations of the officers by whom the survey is to be made; and

(*c*) the kind of survey-marks to be erected by those officers.

(*2*) From the date of the notification the officers specified therein, and the persons acting under their orders, shall have for the purposes of the survey the powers conferred on Revenue-officers by section 104.

Penalty for destruction, injury or removal of survey-marks.

108. (*1*) If any person wilfully destroys or injures or without lawful authority removes a survey-mark lawfully erected, he may be ordered by a Revenue-officer to pay such fine not exceeding fifty rupees for each mark so destroyed, injured or removed as may, in the opinion of the Revenue-officer, be necessary to defray the expense of restoring the same and of rewarding the person, if any, who gave information of the destruction, injury or removal.

(*2*) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code.

XLV of 1860.

Report of destruction, injury or removal of survey-marks.

109. Every village-officer of an estate shall be legally bound to furnish a Revenue-officer with information respecting the destruction or removal of, or any injury done to, any survey-mark lawfully erected in the estate.

CHAPTER IX.

PARTITION.

Effect of partitions of estates and tenancies on joint liability for revenue and rent.

110. (*1*) A partition of land, either under this Chapter or otherwise, shall not, without the express consent of the Financial Commissioner, affect the joint liability of the land or of the landowners thereof for the revenue payable in respect of the land, or operate to create new estate, and, if any conditions are attached to that consent, those conditions shall be binding on the parties to the partition.

(*2*) A partition of a tenancy shall not, without the express consent of the landlord, affect the joint liability of the co-sharers therein for the payment of the rent thereof.

Application for partition.

111. Any joint owner of land, or any joint tenant of a tenancy in which a right of occupancy subsists, may apply to a Revenue-officer for partition of his share in the land or tenancy, as the case may be, if—

(*a*) at the date of the application the share is recorded under Chapter IV as belonging to him, or

(*b*) his right to the share has been established by a decree which is still subsisting at that date, or

(*c*) a written acknowledgment of that right has been executed by all persons interested in the admission or denial thereof.

Restrictions and limitations on partition.

112. Notwithstanding anything in the last foregoing section—

(*1*) places of worship and burial-grounds held in common before partition shall continue to be so held after partition, unless the owners otherwise agree among themselves and record their agreement and file it with the Revenue-officer;

(*2*) partition of any of the following properties, namely:

(*a*) any embankment, watercourse, well or tank, and any land on which the supply of water to any such work may depend,

(*b*) any grazing-ground, and

(*c*) any land which is occupied as the site of a town or village and is assessed to land-revenue,

may be refused if in the opinion of the Revenue-officer the partition of such property is likely to cause inconvenience to the co-sharers or other persons directly or indirectly interested therein or to diminish the utility thereof to those persons;

(*3*) the fact that a partition on the application of a joint owner of land would render necessary the severance into two or more parts of the land comprised in the

The Punjab Land-revenue Bill.
(Chapter IX.—Partition.—Sections 113-120.)

tenancy of a tenant having a right of occupancy may, unless the tenant assents to the severance, be a sufficient reason for the disallowance of the partition in so far as it would affect that tenancy; and

(4) the fact that the landlord objects to the partition of a tenancy may be sufficient reason for the absolute disallowance of the partition.

Notice of application for partition.

113. The Revenue-officer, on receiving the application under section 111, shall, if it is in order and not open to objection on the face of it, fix a day for the hearing thereof, and—

(*a*) cause notice of the application and of the day so fixed to be served on such of the recorded co-sharers as have not joined in the application, and, if the share of which partition is applied for is a share in a tenancy, on the landlord also; and

(*b*) if he thinks fit, cause the notice to be served on, or proclaimed for the information of, any other persons whom he may deem to be directly or indirectly interested in the application.

Addition of parties to application.

114. On the day fixed for the hearing, or on any day to which the hearing may be adjourned, the Revenue-officer shall ascertain whether any of the other co-sharers desire the partition of their shares also, and, if any of them so desire, he shall add them as applicants for partition.

Absolute disallowance of partition.

115. After examining such of the co-sharers and other persons as may be present on that day, the Revenue-officer may, if he is of opinion that there is good and sufficient cause why partition should be absolutely disallowed, refuse the application, recording the grounds of his refusal.

Procedure on admission of application.

116. (*1*) If the Revenue-officer does not refuse the application under the last foregoing section, he shall ascertain the questions, if any, in dispute between any of the persons interested, distinguishing between—

(*a*) questions as to title in the property of which partition is sought; and

(*b*) questions as to the property to be divided, or the mode of making the partition.

Disposal of questions as to title in property to be divided.

117. (*1*) When there is a question as to title in any of the property of which partition is sought, the Revenue-officer may decline to grant the application for partition until the question has been determined by a competent Court, or he may himself proceed to determine the question as though he were such a Court.

(*2*) In the latter case his procedure shall be that applicable to the trial of an original suit by a Civil Court, and he shall record a judgment and decree containing the particulars required by the Code of Civil Procedure to be specified therein. XIV of 1882.

(*3*) An appeal shall lie from the decree of the Revenue-officer in such a case as though that decree were a decree of a District Judge in an original suit.

(*4*) Upon such an appeal being made, the Divisional Court or Chief Court, as the case may be, may issue an injunction to the Revenue-officer requiring him to stay proceedings pending the disposal of the appeal.

(*5*) From the appellate decree of a Divisional Court upon such an appeal a further appeal shall lie to the Chief Court if such a further appeal is allowed by the law for the time being in force.

Disposal of other questions.

118. (*1*) When there is a question as to the property to be divided, or the mode of making a partition, the Revenue-officer shall, after such inquiry as he deems necessary, record an order stating his decision on the question and his reasons for the decision.

(*2*) An appeal may be preferred to the Commissioner from an order under sub-section (*1*) within fifteen days from the date thereof, and, when such an appeal is preferred and the institution thereof has been certified to the Revenue-officer by the Commissioner, the Revenue-officer shall stay proceedings pending the disposal of the appeal.

(*3*) If an applicant for partition is dissatisfied with an original or appellate order under this section, and applies for permission to withdraw from the proceedings in so far as they relate to the partition of his share, he shall be permitted to withdraw therefrom on such terms as the Revenue-officer thinks fit.

(*4*) When an applicant withdraws under the last foregoing sub-section, the Revenue-officer may, where the other applicants, if any, desire the continuance of the proceedings, continue them in so far as they relate to the partition of the shares of those other applicants.

Administration of property excluded from partition.

119. When any such property as is referred to in section 112, clause (*2*), is excluded from partition, the Revenue-officer may determine the extent and manner to and in which the co-sharers and other persons interested therein may make use thereof, and the proportion in which expenditure incurred thereon and profits derived therefrom, respectively, are to be borne by and divided among those persons or any of them.

Distribution of revenue and rent after partition.

120. (*1*) The amount of revenue to be paid in respect of each of the holdings into which land has been divided on a partition, and the amount of rent to be paid in respect of each of the portions into which a tenancy has been so divided, shall be determined by the Revenue-officer making the partition.

(*2*) The determination of the Revenue-officer as to the revenue to be paid in respect of each holding shall, where the estate in which the holding is situate is subject to a fixed assessment, be deemed to be an order under section 56, sub-section (*1*).

(*3*) Where new estates have been created at a partition and the land-revenue has been fraudulently or erroneously distributed among them, the Local Government may, within twelve years from the time of discovery of the fraud or error, order a new distribution of the land-revenue among the several estates, on an estimate of the assets of

The Punjab Land-revenue Bill.
(Chapter IX.—Partition.—Sections 121-126. Chapter X.—Arbitration.—Sections 127-132.)

each estate at the time of the partition, to be made conformably to the best evidence and information procurable respecting the same.

Instrument of partition.

121. When a partition is completed, the Revenue-officer shall cause an instrument of partition to be prepared, and the date on which the partition is to take effect to be recorded therein.

Delivery of possession of property allotted on partition.

122. An owner or tenant to whom any land or portion of a tenancy, as the case may be, is allotted in proceedings for partition shall be entitled to possession thereof as against the other parties to the proceedings and their legal representatives, and a Revenue-officer shall, on application made to him for the purpose by any such owner or tenant at any time within three years from the date recorded in the instrument of partition under the last foregoing section, give effect to that instrument so far as it concerns the applicant as if it were a decree for immoveable property.

Affirmation of partitions privately effected.

123. *(1)* In any case in which a partition has been made without the intervention of a Revenue-officer, any party thereto may apply to a Revenue officer for an order affirming the partition.

(2) On receiving the application, the Revenue officer shall inquire into the case, and, if he finds that the partition has in fact been made, he may affirm it and proceed under sections 119, 120 121 and 122, or any of those sections, as circumstances may require, in the same manner as if the partition had been made on an application to himself under this Chapter.

Power to make rules as to costs of partitions.

124. The Financial Commissioner may make rules for determining the costs of partitions under this Chapter and the mode in which such costs are to be apportioned.

Re-distribution of land according to custom.

125. When by established custom any land in an estate is subject to periodical re-distribution, a Revenue-officer may, on the application of any of the landowners, enforce the re-distribution according to the custom, and for this purpose may exercise all or any of the powers of a Revenue-officer in proceedings for partition.

Officers who may be empowered to act under this Chapter.

126. The Revenue officer by whom proceedings may be taken under this Chapter shall be a Revenue-officer of a class not below that of Assistant Collector of the first grade.

CHAPTER X.

ARBITRATION.

Power to refer to arbitration.

127. *(1)* Any Revenue-officer may, with the consent of the parties, refer to arbitration any dispute arising before him in any matter under this Act.

(2) A Collector or an Assistant Collector of the first grade may, without the consent of the parties, refer to arbitration any dispute before him with respect to—

(*a*) any matter of which an entry is to be made in any record or register under Chapter IV;

(*b*) any matter relating to the distribution of an assessment under section 56;

(*c*) the limits of any estate or of any holding, field or other portion of an estate; or

(*d*) the property to be divided at a partition or the mode of making a partition.

Order of reference and contents thereof.

128. *(1)* In referring a dispute to arbitration a Revenue-officer shall make an order of reference, and specify therein the precise matter submitted to arbitration, the number of arbitrators which each party to the dispute is to nominate, the period within which arbitrators are to be nominated, and the period within which the award is to be delivered.

(2) The number of arbitrators which each party may nominate must be the same and must not exceed two.

(3) If from any cause arbitrators are not nominated, or an award is not delivered, within the period fixed therefor in the order of reference, the Revenue-officer may from time to time enlarge that period, or may cancel the order of reference.

Nomination of arbitrators.

129. *(1)* When an order of reference has been made, the parties may each nominate the number of arbitrators specified in the order, and the Revenue-officer shall nominate one other arbitrator.

(2) The Revenue-officer may, for reasons to be recorded by him, make an order disallowing any nomination made by either party and requiring the party to make another nomination within a time to be specified in the order.

(3) An order under the last foregoing sub-section shall be final.

Substitution of arbitrators by parties.

130. If an arbitrator nominated by a party dies, desires to be discharged or refuses or becomes incapable to act, the party may nominate another person in his stead.

Nomination and substitution of arbitrators by Revenue-officers.

131. In any of the following cases, namely:

(*a*) if either of the parties fails to nominate an arbitrator under sub section *(1)* of section 129 within the period fixed in the order of reference, or

(*b*) if the nomination of an arbitrator has been disallowed under sub-section (2) of section 129, and another arbitrator is not nominated within the time specified in the order under that sub-section or, having been so nominated, his nomination is also disallowed, or

(*c*) if a party entitled to nominate an arbitrator in the place of another arbitrator under section 130 fails to nominate him within one week from the date of the communication to him of a notice requiring him to make the nomination, or

(*d*) if an arbitrator nominated by the Revenue-officer dies, desires to be discharged, or refuses or becomes incapable to act,

the Revenue-officer may nominate a person as arbitrator.

Process for appearance before arbitrators.

132. *(1)* The Revenue-officer shall, on the application of the arbitrators, issue the same processes to the parties and witnesses

The Punjab Land-revenue Bill.
(Chapter X.—Arbitration.—Sections 133-135. Chapter XI.—Special Jurisdiction with respect to Land.—Sections 136-137. Chapter XII.—Supplemental Provisions.—Section 138.)

whom the arbitrators desire to examine as he may issue in any proceeding under this Act before himself.

(2) Any such party or witness shall be bound to appear before the arbitrators in obedience to a process issued under sub-section (1), either in person or by agent, as the arbitrators may require.

(3) The person attending in obedience to the process shall state the truth upon any matter respecting which he is examined or makes statements, and produce such documents and other things relating to any such matter as may be specified in the process.

Award of arbitrators and presentation thereof.

133. (1) The arbitrators shall make an award in writing under their hands concerning the matters referred to them for arbitration, and state therein their reasons therefor, and any arbitrator dissenting from the award made by a majority of the arbitrators shall state the grounds of his dissent.

(2) The arbitrators shall present the award to the Revenue-officer in person unless that officer permits them to present it by agent.

Procedure on presentation of award.

134. When the award has been received, the Revenue-officer shall, if the parties are present, consider forthwith any objections which they may have to make thereto, and, if they are not present, fix a date for the consideration thereof.

(2) Where a date has been fixed for the consideration of an award, the Revenue-officer shall on that date, or on any subsequent date to which an adjournment may be made, hear any objections which the parties may have to make to the award.

(3) The Revenue-officer may also, if he thinks fit, question the arbitrators as to the grounds of their award.

Effect of award.

135. (1) The Revenue-officer may accept, modify or reject the award, recording his reasons for doing so in his decision respecting the dispute which was referred to arbitration.

(2) An appeal shall lie from the decision as if arbitrators had not been appointed.

CHAPTER XI.

SPECIAL JURISDICTION WITH RESPECT TO LAND.

Power to invest officers making records-of-rights or general re-assessments with powers of Civil Courts.

136. (1) The Local Government may, by order published in the official Gazette, invest any Revenue-officer making or specially revising records-of-rights in any local area in pursuance of a notification under section 32 or making a general re-assessment of land-revenue in any local area in pursuance of a notification under section 49, or any Revenue-officer to whose control that officer is subject, with all or any of the powers of any Court constituted under the Punjab Courts Act, 1884, for the purpose of trying all or any specified classes of suits or appeals relating to land arising in the local area.

(2) The Local Government may cancel an order under sub-section (1) wholly or in part.

(3) While an order or any part of an order under that sub-section continues in force, the powers conferred thereby shall be exercised by the officer invested therewith and not otherwise.

(4) Any cases pending before that officer under the order or a subsisting part of the order at the time of the cancellation thereof may be disposed of by him as if the order or that part of it continued in force, unless the Local Government directs, as it is hereby empowered to do, that those cases shall be transferred for disposal to the Courts by which they would have been disposed of if the order had not been published.

Control over such officers and appeals from and revision of their decrees and orders.

137. (1) The Local Government may by notification direct that the provisions of this Act with respect to the superintendence and control over Revenue-officers shall, subject to any modification of those provisions which the Local Government thinks fit, apply to any Revenue-officer, except the Financial Commissioner, who has been invested with the powers of a Civil Court of any of the classes specified in clauses (a), (b), (c) and (d) of section 17 of the Punjab Courts Act, 1884, and XVIII 1884.
that appeals shall lie from his decrees and orders to, and his decrees and orders be subject to revision by, a Revenue-officer invested under the last foregoing section with the powers of a Court which would be competent under the Punjab Courts Act, 1884, to hear appeals from, or revise, such decrees and orders if they had been made by a Court with the powers of which the Revenue-officer who made them has been invested.

(2) In the absence of any such notification, a Revenue-officer invested under the last foregoing section with the powers of any such Civil Court as aforesaid shall, with respect to the exercise of those powers, be deemed to be such a Civil Court for the purposes of the Punjab Courts Act, 1884.

CHAPTER XII.

SUPPLEMENTAL PROVISIONS.

Revenue Deposits.

Power to deposit certain sums other than rent.

138. (1) In either of the following cases, namely:

(a) when a headman or other landowner, or an assignee of land-revenue, to whom any sum other than rent is payable on account of a liability under this Act refuses to receive the sum from, or to grant a receipt therefor to, the person by whom it is payable,

(b) when the person by whom any such sum is payable is in doubt as to the headman or other landowner, or the assignee of land-revenue, entitled to receive it,

that person may apply to a Revenue-officer for leave to deposit the sum in his office, and the Revenue-officer shall receive the deposit if, after examining the applicant, he is satisfied that there is sufficient ground for the application and if the applicant pays the fee, if any, which may be chargeable on any notice to be issued of the receipt thereof.

(2) When a deposit has been so received, the liability of the depositor to the headman or other landowner, or the assignee of land-revenue, for the amount thereof shall be discharged.

The Punjab Land-revenue Bill.
(Chapter XII.—Supplemental Provisions.—Sections 139-146.)

Procedure in case of deposit on account of a payment due to Government.

139. If the deposit purports to be made on account of any payment due to the Government, it may be credited accordingly.

Procedure in case of other deposits.

140. (*1*) A Revenue-officer receiving a deposit purporting to be made on any other account shall give notice of the receipt thereof to every person who he has reason to believe claims or is entitled to the deposit, and may pay the amount thereof to any person appearing to him to be entitled to the same, or may, if he thinks fit, retain the deposit pending the decision of a Civil Court as to the person so entitled.

(*2*) No suit or other proceeding shall be instituted against the Secretary of State for India in Council, or against any officer of the Government, in respect of anything done by a Revenue-officer under this section, but nothing in this sub-section shall prevent any person entitled to receive the amount of any such deposit from recovering it from a person to whom it has been paid by a Revenue-officer.

Execution of Orders of Civil and Criminal Courts by Revenue-officers.

Orders of Civil and Criminal Courts for execution of processes against land or the produce thereof to be addressed to a Revenue-officer.

141. Orders issued by any Civil or Criminal Court for the attachment, sale or delivery of any land or interest in land, or for the attachment or sale of the produce of any land, shall be addressed to the Collector or such Revenue-officer as the Collector may appoint in this behalf, and be executed by the Collector or that officer in accordance with the provisions of the law applicable to the Court issuing the orders and with any rules consistent therewith made by the Financial Commissioner with the concurrence of the Chief Court and the previous sanction of the Local Government.

Attachment of assigned land-revenue.

142. (*1*) Notwithstanding anything in any other enactment for the time being in force, an order issued by any Court for the attachment of assigned land-revenue shall require the person by whom the revenue is payable to pay it to the Collector, and the Collector to hold it subject to the further orders of the Court.

(*2*) A payment to the Collector under sub-section (*1*) shall be an effectual discharge to the person making it.

Preservation of attached Produce.

Preservation of attached produce.

143. (*1*) The attachment of the produce of any land in pursuance of an order of any Court or other authority shall not prevent the person to whom the produce belongs from reaping, gathering or storing it or doing any other act necessary for its preservation.

(*2*) The attaching officer shall do or cause to be done all acts necessary for the preservation of the produce if the person to whom it belongs fails to do so.

(*3*) When sale of produce follows on its attachment, the purchaser shall be entitled, by himself or by any person appointed by him in this behalf, to enter on the place where the produce is and do all that is necessary for the purpose of preserving and removing it.

Division of Produce.

Division of produce.

144. In either of the following cases, namely :

(*a*) where land-revenue is paid by division or appraisement of the produce,

(*b*) where a superior and an inferior landowner, or two or more shareholders in a holding or tenancy, are jointly interested in any produce, and either or any of the landowners or tenants, as the case may be, desires the assistance of a Revenue-officer for the purpose of dividing or appraising the produce,

the provisions of the Punjab Tenancy Act, 1887, with respect to the division or appraisement of produce shall apply so far as they can be made applicable.

Miscellaneous.

Village-cesses.

145. (*1*) At any of the following times, namely:

(*a*) when a record-of-rights is being made or specially revised for an estate,

(*b*) when the local area in which an estate is situate is being generally re-assessed and before the assessment has been confirmed,

(*c*) at any other time on an order made with respect to any estate by the Local Government with the previous sanction of the Governor-General in Council,

a Revenue-officer shall prepare a list of village-cesses, if any, levied in the estate which have been generally or specially approved by the Local Government, or the title to which has before the passing of this Act been judicially established.

(*2*) When a list has been prepared for an estate under sub-section (*1*), a village-cess not comprised therein shall not be recoverable by suit in any Court.

(*3*) The Local Government may impose on the collection of any village-cess comprised in the list such conditions as to police or other establishments connected with the village, market or fair in or on account of which the cess is levied, as it thinks fit.

(*4*) The Governor-General in Council may, on a reference from the Local Government, declare whether any cess, contribution or due levied in an estate is or is not a village-cess.

(*5*) A declaration of the Governor-General in Council under the last foregoing sub-section shall be conclusive, and shall not be liable to be questioned in any Court.

Superior landowners' dues.

146. Where a superior landowner is entitled to receive in respect of any land from an inferior landowner dues in kind or in cash of fluctuating quantity or amount, the Collector may—

(*a*) on the application of both landowners, or,

(*b*) with the previous sanction of the Local Government, on the application of either of them,

commute those dues into a fixed percentage of the land-revenue payable by the inferior landowner in respect of the land.

The Punjab Land-revenue Bill.
(Chapter XII.—Supplemental Provisions.—Sections 147-155.)

Substitution of service for payment of land-revenue.

147. (*1*) The Local Government may, with the previous sanction of the Governor-General in Council, authorize the remission of land-revenue in whole or in part in consideration of the person liable therefor undertaking to render in lieu thereof such public service as may be specified in an agreement to be approved by the Local Government and executed by that person.

(*2*) The Local Government may, with the like sanction, cancel any remission authorized, and agreement made, under sub-section (*1*).

(*3*) If a landowner bound by an agreement under that sub-section to render public service in lieu of paying land-revenue fails to render the service to the satisfaction of the Collector, the Collector may determine the portion of the land-revenue remitted which is represented by the service in respect of which the landowner is in default, and, with the previous sanction of the Financial Commissioner, recover that portion as if it were an arrear of land-revenue due in respect of the land for the land-revenue whereof the service was substituted.

Recovery of cost of assessing assigned land-revenue.

148. (*1*) When land of which the land-revenue has been assigned in whole or in part is re-assessed, the assignee shall be liable to pay such a share of the cost of making the re-assessment as the Financial Commissioner may determine to be just.

(*2*) That share may be recovered by the Collector by deduction of the amount thereof from the land-revenue due to the assignee.

Penalty for failure to attend within limits of estate in obedience to order of Revenue-officer.

149. If a person required by a summons, notice, order or proclamation proceeding from a Revenue-officer to attend at a certain time and place within the limits of the estate in which he ordinarily resides, or in which he holds or cultivates land, fails to comply with the requisition, he shall be liable at the discretion of the Revenue-officer to fine which may extend to fifty rupees.

Prevention of encroachment on common lands.

150. Where land which has been reserved for the common purposes of the co-sharers therein has been encroached on by any co-sharer, a Revenue-officer may, on the application of any other co-sharer, eject the encroaching co-sharer from the land and, by order proclaimed in manner mentioned in section 22, forbid repetition of the encroachment.

Papers kept by village-officers to be deemed public documents.

151. (*1*) Any record or paper which a village-officer is required by law or by any rule under this Act to prepare or keep shall be deemed to be the property of the Government.

(*2*) A village-officer shall, with respect to any such record or paper in his custody, be deemed for the purposes of the Indian Evidence Act, 1872, to be a public officer having the custody of a public document which any person has a right to inspect.

Costs.

152. (*1*) A Revenue-officer may give and apportion the costs of any proceeding under this Act in any manner he thinks fit;

(*2*) But if he orders that the costs of any such proceeding shall not follow the event, he shall record his reasons for the order.

Computation of periods limited for appeals and applications for review.

153. In the computation of the period for an appeal from, or an application for the review of, an order under this Act the limitation therefor shall be governed by the Indian Limitation Act, 1877. XV of 1877.

Restriction on Revenue-officers bidding at auctions or trading.

154. (*1*) A Revenue-officer, or a person employed in a revenue-office, shall not—

(*a*) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property which any Revenue-officer or Revenue Court in the district in which he is employed has ordered to be sold, or,

(*b*) in contravention of any rules made by the Local Government in this behalf, engage in trade in that district.

(*2*) Nothing in sub-section (*1*) shall be deemed to preclude any person from becoming a member of a company incorporated under the Indian Companies Act, 1882, or other law. VI of 1882.

Power to make rules.

155. (*1*) The Financial Commissioner may, in addition to the other rules which may be made by him under this Act, make rules consistent with this Act and any other enactment for the time being in force—

(*a*) fixing the number and amount of the instalments, and the times and places and the manner, by, at and in which any sum other than rent or land-revenue which is payable under this Act or of which a record has been made thereunder is to be paid;

(*b*) fixing the dates on which profits are to be divisible by headmen or other persons by whom they are realized on behalf of co-sharers;

(*c*) prescribing the fees to be charged for the service and execution of processes issued by Revenue-officers and Revenue Courts, the mode in which those fees are to be collected, the number of persons to be employed in the service and execution of those processes, and the remuneration and duties of those persons;

(*d*) regulating the procedure in cases where persons are entitled to inspect records of revenue-offices, or records or papers in the custody of village-officers, or to obtain copies of the same, and prescribing the fees payable for searches and copies;

(*e*) prescribing forms for such books, entries, statistics and accounts as the Financial Commissioner thinks necessary to be kept,

72

The Punjab Land-revenue Bill.
(Chapter XII.—Supplemental Provisions.—Sections 156-158.)

made or compiled in revenue-offices or submitted to any authority;

(*f*) declaring what shall be the language of any of those offices, and determining in what cases persons practising in those offices shall be permitted to address the presiding officers thereof in English; and

(*g*) generally for carrying out the purposes of this Act.

(2) Until rules are made under clauses (*a*) and (*b*) of sub-section (*1*) the sums therein referred to shall be payable by the instalments, at the times and places, and in the manner by, at and in which they are now payable.

(3) Rules made by the Financial Commissioner under this or any other section of this Act shall not take effect until they have been sanctioned by the Local Government, and rules under clause (*c*) of sub-section (*1*) shall not take effect until they have also been confirmed by the Governor-General in Council.

Rules to be made after previous publication.

156. The power to make any rules under this Act is subject to the control of the Governor-General in Council, and to the condition of the rules being made after previous publication.

Powers exerciseable by the Financial Commissioner from time to time.

157. All powers conferred by this Act on the Financial Commissioner may be exercised from time to time as occasion requires.

Exclusion of Jurisdiction of Civil Courts.

Exclusion of jurisdiction of Civil Courts in matters within the jurisdiction of Revenue-officers.

158. Except as otherwise provided by this Act—

(*1*) a Civil Court shall not have jurisdiction in any matter which the Local Government or a Revenue-officer is empowered by this Act to dispose of, or take cognizance of the manner in which the Local Government or any Revenue-officer exercises any powers vested in it or him by or under this Act; and, in particular—

(2) a Civil Court shall not exercise jurisdiction with respect to—

(i) any question as to the limits of any land which has been defined by a Revenue-officer as land to which this Act does or does not apply;

(ii) any claim to compel the performance of any duties imposed by this Act or any other enactment for the time being in force on any Revenue-officer, as such;

(iii) any claim to the office of kánúngo, zaildár, inámdár or village-officer, or in respect of any injury caused by exclusion from such office, or to compel the performance of the duties or a division of the emoluments thereof;

(iv) any notification directing the making or revision of a record-of-rights;

(v) the framing of a record-of-rights or annual record, or the preparation, signing or attestation of any of the documents included in such a record;

(vi) the correction of any entry in a record-of-rights, annual record or register of mutations;

(vii) any notification of the undertaking of the general re-assessment of a district or tahsil having been sanctioned by the Governor-General in Council;

(viii) the claim of any person to be liable for an assessment of land-revenue or of any other revenue assessed under this Act;

(ix) the amount of land-revenue to be assessed on any estate or to be paid in respect of any holding under this Act;

(x) the amount of, or the liability of any person to pay, any other revenue to be assessed under this Act, or any cess, charge or rate to be assessed on an estate or holding under this Act or any other enactment for the time being in force;

(xi) any claim relating to the allowance to be received by a landowner who has given notice of his refusal to be liable for an assessment, or any claim connected with, or arising out of, any proceedings taken in consequence of the refusal of any person to be liable for an assessment under this Act;

(xii) the formation of an estate out of waste-land;

(xiii) any claim to hold free of revenue any land, mills, fisheries or natural products of land or water;

(xiv) any claim connected with, or arising out of, the collection by the Government, or the enforcement by the Government of any process for the recovery, of land-revenue or any sum recoverable as an arrear of land-revenue;

(xv) any claim to set aside, on any ground other than fraud, a sale for the recovery of an arrear of land-revenue or any sum recoverable as an arrear of land-revenue;

(xvi) the amount of, or the liability of any person to pay, any fees, fines, costs or other charges imposed under this Act;

(xvii) any claim for partition of an estate, holding or tenancy, or any question connected with, or arising out of, proceedings for partition, not being a question as to title in any of the property of which partition is sought;

The Punjab Land-revenue Bill.
(The Schedule.)

(xviii) any question as to the allotment of land on the partition of an estate, holding or tenancy, or as to the distribution of land subject by established custom to periodical re-distribution, or as to the distribution of land-revenue on the partition of an estate or holding or on a periodical re-distribution of land, or as to the distribution of rent on the partition of a tenancy;

(xix) any claim to set aside or disturb a division or appraisement of produce confirmed or varied by a Revenue-officer under this Act;

(xx) any proceeding under this Act for the commutation of the dues of a superior land-owner;

(xxi) any claim arising out of the enforcement of an agreement to render public service in lieu of paying land-revenue; or

(xxii) any claim arising out of the liability of an assignee of land-revenue to pay a share of the cost of collecting or re-assessing such revenue, or arising out of the liability of an assignee to pay out of assigned land-revenue, or of a person who would be liable for land-revenue if it had not been released, compounded for or redeemed to pay on the land-revenue for which he would but for such release, composition or redemption be liable, such a percentage for the remuneration of a zaildár, inámdár or village-officer as may be prescribed by rules for the time being in force under this Act.

THE SCHEDULE.

(See section 2.)

ENACTMENTS REPEALED.

Number and year.	Title or subject of enactment.	Extent of repeal.
1	2	3
Act XXI of 1836.	Creation of new Zilas.	So much as has not been repealed.
Act VI of 1867.	To enable the Lieutenant-Governor of the Punjab to alter the limits of existing districts in any part of the territories under his government.	The whole.
Act VII of 1870.	The Court-fees Act, 1870.	In section 20, clause (*i*), the words "and Revenue," and the whole of section 23.
Act XXXIII of 1871.	The Punjab Land-revenue Act, 1871.	The whole.
Act IV of 1872.	The Punjab Laws Act, 1872.	Section 21.
Act XVIII of 1884.	The Punjab Courts Act, 1884.	Chapter VI.
Regulation I of 1872.	The Punjab Frontier Regulation, 1872.	Rules 26 to 46 (both inclusive), comprising sections G, H, I and K, of the Hazara Settlement Rules.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY SEPTEMBER 1, 1887.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 24th August, 1887:

No. 10 OF 1887.

A Bill to make better provision for recovering certain public demands.

WHEREAS it is expedient to make better provision for recovering certain public demands; It is hereby enacted as follows:—

Title, extent and commencement.

1. (*1*) This Act may be called the Revenue Recovery Act, 1887.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force at once.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

[Act XXIII, 1850: Act XII, 1851: Bom. Act II of 1876.]

(*1*) "district" includes a presidency-town:

(*2*) "Collector" means the chief officer in charge of the land-revenue administration of a district: and

(*3*) "defaulter" means a person from whom an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is due, and includes a person who is responsible as surety for the payment of any such arrear or sum.

Recovery of public demands by enforcement of process in other districts than those in which they become payable.

3. (*1*) Where an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is payable to a Collector by a defaulter being or having property in a district other than that in which the arrear accrued or the sum is payable, the Collector may send to the Collector of that other district a certificate in the form as nearly as may be of the schedule, stating— [Cf. 43 Vic., c. 90.]

(*a*) the name of the defaulter and such other particulars as may be necessary for his identification, and

(*b*) the amount payable by him and the account on which it is due.

(*2*) The certificate shall be signed by the Collector making it, and, save as otherwise provided by this Act, shall be conclusive proof of the matters therein stated. [Cf. Act ... 1873, s. ... & Act ... 1881, s. ...]

(*3*) On receiving the certificate the Collector of the other district shall proceed to recover the amount stated therein as if it were an arrear of land-revenue which had accrued in his own district.

Remedy available to person denying liability to pay amount recovered under last foregoing section.

4. (*1*) When proceedings are taken against a person under the last foregoing section for the recovery of an amount stated in a certificate, that person may, if he denies his liability to pay the amount or any part thereof and pays the same under protest made in writing at the time of payment and signed by him or his agent, institute a suit for the re-payment of the amount or the part thereof so paid. [Punjab Land-re... Bill No. 78.]

(*2*) A suit under sub-section (*1*) must be instituted in a Civil Court having jurisdiction

in the place where the office of the Collector who made the certificate is situate, and the suit shall be determined in accordance with the law in force at that place as if the payment under protest had been made thereat.

XIX, 189.] (3) In the suit the plaintiff may, notwithstanding anything in the last foregoing section, give evidence with respect to any matter stated in the certificate.

ct 880, s. XII, 4: II, 9: , 1879, nd Act 884, s. section

Recovery by Collectors of sums recoverable as arrears of revenue by other public officers or by local authorities.

5. Where any sum is recoverable as an arrear of land-revenue by any public officer other than a Collector or by any local authority, the Collector of the district in which the office of that officer or authority is situate shall, on the request of the officer or authority, proceed to recover the sum as if it were an arrear of land-revenue which had accrued in his own district, and may send a certificate of the amount to be recovered to the Collector of another district under the foregoing provisions of this Act as if the sum were payable to himself.

3, sub- (1), Bill.]

Punjab evenue No. II, Act 873, s. nd Act 883, s. section clause

Property liable to sale under this Act.

6. (1) When the Collector of a district receives a certificate under this Act, he may issue a proclamation prohibiting the transfer or charging of any immoveable property belonging to the defaulter in the district.

(2) The Collector may at any time, by order in writing, withdraw the proclamation, and it shall be deemed to be withdrawn when either the amount stated in the certificate has been recovered or the property has been sold for the recovery of that amount.

(3) Any private alienation of the property or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof shall be void.

(4) Subject to the foregoing provisions of this section, when proceedings are taken against any immoveable property under this Act for the recovery of an amount stated in a certificate, the interests of the defaulter alone therein shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of proceedings being taken against those interests.

Saving of local laws relating to revenue.

7. Nothing in the foregoing sections shall be construed to impair any security provided by any other enactment for the time being in force for the recovery of land-revenue or of sums recoverable as arrears of land-revenue. [Cf. Mad. Act II, 1864, s. ; Bom. Act 1879, ss. 137, 149 and 187: Ben. Act VII, 1880, s. 19: and Act XVIII, 1881, s. 94.]

THE SCHEDULE.

CERTIFICATE.

(*See section 3, sub-section (1).*)

From

The Collector

of

To

The Collector

of

Dated the , of 18 .

The sum of Rs. is payable on account of by , son of , resident of , who is believed (to be at) (to have property consisting of at) in your district.

Subject to the provisions of the Revenue Recovery Act, 1887, the said sum is recoverable by you as if it were an arrear of land-revenue which had accrued in your own district, and you are hereby desired so to recover it and to remit it to my office at

A. B.,

Collector of .

STATEMENT OF OBJECTS AND REASONS.

THE principal object of this Bill (sections 3 and 4) is to provide for the recovery of arrears of revenue in districts other than those in which the arrears have accrued. The necessity of making provision in this behalf arises from the fact that most of the enactments relating to the recovery of revenue are local in their operation. Thus, the North-Western Provinces Land-revenue Act, 1873, extends only to the territories for the time being under the government of the Lieutenant-Governor of those Provinces, and the Oudh Land-revenue Act, 1876, only to the territories under the administration of the Chief Commissioner of that Province. The consequence is that a process for the recovery of an arrear which has accrued in Oudh cannot be enforced in an adjoining district of the North-Western Provinces. Similarly, a process for the recovery of an arrear which has accrued in the North-Western Provinces cannot be enforced in Madras, Bombay, Bengal, the Punjab or the Central Provinces. It has even been doubted whether, in the absence of such a clause as is to be found in section 94 of the Central Provinces Land-revenue Act, 1881, a process issued for the recovery of an arrear which has accrued in one district of the North-Western Provinces can be enforced in another district of those Provinces. The very great inconvenience arising from such a state of the law has been represented to the Government of India by the Governments of the North-Western Provinces and Oudh and the Punjab, and legislation on the lines of this Bill has been urged by those Governments and approved by all other Local Governments.

2. The minor object of the Bill (section 5) is to provide, as in section 61, sub-section (3), of the Punjab Municipal Act, 1884, a machinery for the recovery of sums which are recoverable by officers other than Collectors and by public bodies as if the sums were arrears of land-revenue. Such sums are those mentioned in section 4, Act XII of 1850, section 9, Act XVII of 1878, and section 77, Act XV of 1879, which are recoverable as arrears of land-revenue by the head of the office, the District Magistrate and the Rangoon Port Commissioners, respectively.

3. Section 6, sub-section (4), of the Bill lays down a rule which has been law in the Bengal Presidency since the year 1822 and has since been enacted for most other parts of British India.

The 24th August, 1887.

J. W. QUINTON.

S. HARVEY JAMES,

Offg. Secretary to the Government of India.

81

Government Gazette,

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY OCTOBER 13, 1887.

PART V.

Bills introduced into the Council of the Governor General for making Laws and Regulations, or published under Rule 22.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 6th October, 1887:

NO. II OF 1887.

A Bill to amend the Law relating to the Regulation of Police.

WHEREAS it is expedient to relax those provisions of Acts for the regulation of police which restrict the employment of Police-officers to the presidency, province or place of the police-establishment of which they are members; It is hereby enacted as follows:

Title, extent and commencement.

1. (*1*) This Act may be called the Police Act, 1887.

(*2*) It extends to the whole of British India; and

(*3*) It shall come into force at once.

Constitution of police-forces for special purposes.

2. (*1*) Notwithstanding anything in Act XXIV of 1859 *(an Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George)*, Act V of 1861 *(an Act for the regulation of Police)* or the Bombay District Police Act, 1867, the Governor-General in Council may, by notification in the Gazette of India, create a general police district embracing parts of two or more presidencies, provinces or places, and direct the enrolment under Act V of 1861 for service therein of a police-force of which the members shall exercise such powers, perform such duties, enjoy such privileges and be subject to such liabilities of Police-officers appointed under that Act as the Governor-General in Council may direct.

VII of 1867.

(*2*) With respect to a police-force established under the last foregoing sub-section, the functions assigned by Act V of 1861 to the Local Government shall be discharged by the Governor-General in Council, or by such Local Government or other authority as the Governor-General in Council may appoint in this behalf, and the functions so assigned to the Inspector-General of Police, Deputy Inspectors-General, Assistant Inspectors-General, District Superintendents of Police and Assistant District Superintendents shall be discharged by such officer or officers as may be appointed in this behalf by the Governor-General in Council or, subject to his control, by the Local Government or other authority, if any, appointed by him under this sub-section to discharge the functions of the Local Government.

(*3*) Subject to any orders which the Governor-General in Council may make in this behalf, a part of a presidency, province or place included in a general police district under sub-section (*1*) shall not by reason of being included therein cease to be part of the presidency or general police district of which it forms part under any of the Acts mentioned in that sub-section.

(*4*) For the purposes of this section, and subject to the provisions thereof, Act V of 1861 shall be deemed to take effect throughout British India.

Employment of police-officers beyond the province to which they belong.

3. Notwithstanding anything in the Acts mentioned in sub-section (*1*) of the last foregoing section, but subject to the provisions of any other enactment for the time being in force and to any orders which the Governor-General in Council may make in this behalf, a member of the police-establishment of any presidency or general police district may be employed in any other presidency or general police district, and, while so employed, shall be deemed to be a member of the police-establishment of that other presidency or district.

STATEMENT OF OBJECTS AND REASONS.

UNDER the provisions of the various Police Acts in force in British India, namely, Acts XXIV of 1859 and V of 1861 and Bombay Act VII of 1867, the employment of police officers is restricted to the presidency, province or place of the police-establishment of which they are members. These provisions cause much inconvenience. In the case of a railway system passing through territories under the administration of different Local Governments, they necessitate the employment of a different police force under the control of a different authority for each portion of the line which is within the limits of the territories of a different Local Government. On the North-Western Railway, for example, there are at present no less than seven different forces of police under the control of various authorities. Again these provisions prevent even the temporary employment, on an emergency, of police officers of one province in any part of another province. With the object of removing these inconveniences this Bill has been prepared. In order to provide for the employment, under the control of one police authority, of one police force within limits which are not conterminous with the limits of a Local Administration, the Bill empowers the Governor-General in Council to create general police districts embracing parts of two or more provinces and to enrol for service therein a special police force under special police authorities, and it further authorizes the temporary employment of police officers in places beyond the presidency or general police district to which they belong.

The 6th October, 1887.

J. B. PEILE.

J. M. MACPHERSON,
Offg. Secretary to the Government of India.